CASE NO.

List of Petitioner's Evidence Exhibits in Support of Habeas Relief

Exhibits "1"-"35" and Exhibits "A"-" D" incorporated by reference

Exhibit #	<u>File name</u>
Exhibit # 1	Original Habeas Corpus - Due Process claims
	A. 23 September, 2011 Statement to the court
	B. Habeas Corpus Memorandum in Law
	C. US Grand Jury Institute investigative Report
	D. Carroll Ross letter
Exhibit # 2	Notice of Dishonor to issue writ
Exhibit # 3	Entry of Default Judgment against respondents
Exhibit # 4	Ombudsman letter from Michael Lerman re: dishonored habeas /demand to cure
Exhibit # 5	Notary Presentment of Habeas and ombudsman letter regarding dishonored
	petitioner's habeas submitted by next friend MJ Blanchard
Exhibit # 6	Certificate of Mailing of Notary Presentment of Habeas and Ombudsman letter
Exhibit # 7	Certified Mail Receipt of Notary Presentment of Habeas and Ombudsman letter
Exhibit #8	Letter re: Dishonored Ombudsman Notice/Demand to Cure Presented Under Seal
Exhibit # 9	Notary Seal Certification 2930
Exhibit # 10	Affidavit of Service 2930
Exhibit # 11	Green card receipt for certified mail to Tennessee Supreme Court 2930
Exhibit # 12	Affidavit from MJ Blanchard regarding incarceration conditions
Exhibit # 13	Walter Fitzpatrick's original Treason Complaint-re Obama
Exhibit # 14	12 October 2009 FBI Criminal Complaint (pdf)
Exhibit # 15	06 September 2011 criminal complaint re: OBAMA in TREASON
Exhibit # 16	01 April 2010 Carroll L Ross Grand Jury Order of Instruction. Ignore federal crimes
Exhibit # 17	01 December 2009 CHARGE to the Monroe County Tennessee Grand Jury
Exhibit # 18	17 February 2010 SWORN CRIMINAL COMPLAINT AGAINST JUDGE UNDER CODE OF
	JUDICIAL CONDUCT
Exhibit # 19	US Grand Jury institute Investigative Report -Exhibit # B
Exhibit # 20	Agent Washington - Petitioner's complaint reported to FBI (pdf)
Exhibit # 21	10 June 2010 ON DEMAND PUBLIC RECORDS REQUESTS
Exhibit # 22	Filed Motion To Dismiss 7 July 2010
Exhibit # 23	Medical Injury to Body to Walter Fitzpatrick III - injuries to head and ear
Exhibit # 24	01 December 2009 CHARGE to the Monroe County Tennessee Grand Jury (pdf)
Exhibit # 25	07 October 2009 Criminal Complaint Affidavit notarized on 8 October 2009 (Part I)
Exhibit # 26	07 October 2009 Criminal Complaint Affidavit notarized on 8 October 2009(Part II)
Exhibit # 27	07 October 2009 Criminal Complaint Affidavit notarized on 8 October 2009 (Part III)
Exhibit # 28	08 October 2009-Account of meeting with General Sessions Court Judge
Exhibit # 29	08 March 2010 Notice of Necessity, Authority and Intent
Exhibit # 30	01 APRIL CITIZENS ARREST WARRANT
Exhibit # 31	01 APRIL AFFIDAVIT OF CRIMINAL COMPLAINT
Exhibit # 32	FILED Notice of Challenge 24 May 2010 Copy

<u>List of Petitioner's Evidence Exhibits in Support of Habeas Relief</u>

Page 2

Exhibit #	<u>File name</u>
Exhibit # 33	Affidavit of MJ "Zeb" Blanchard regarding Habeas Corpus - Monroe County Court
	Oct 6, 2011 under cause file # 11366
Exhibit # 34	Affidavit of Michael Lerman the Republic Citizens Ombudsman – file #11366
Exhibit # 35	Photographs of damage to Walter Fitzpatrick's home

Petitioner reserves the right to amend and expand this evidence exhibit as

Needed

EXHIBIT 2 1 OCT 0 6 2011 2 10th Judicial DISTRICT MARTHA M. COOK DA Ex Rel 3 MONROE COUNTY EXHIBIT SET 4 Tennessee 5 one of We the People held 6 IN "STATE" CONSTRUCTIVE CUSTODY Phone# 7 Brought on behalf of the PETITION FOR WRIT OF HABEAS 8 **CORPUS** unlawfully imprisoned man 9 Notice to Vacate Void Judgment Walter Fitzpatrick III Petitioner and sentence of the accused in 10 the following cases for cause v. Re: Criminal Court, 11 Monroe County MONROE COUNTY SHERIFF 12 Inc Case No. 11-018 and Inc Case No. 10-213 Respondent Bill Bivens et al and 13 herein for lawful cause STATE OF TENNESSE et al, 14 Notice to release Walter Real Party in interest 15 Fitzpatrick a man unlawfully imprisoned 16 Date: 17 Time: 11:00 a.m. Courtroom: 18 ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS 19 PETITION FOR GREAT WRIT 20 OF HABEAS CORPUS 21 On behalf Walter Fitzpatrick III 22 AS PRESENTED BY AFFIDAVIT OF 23 M.J. BLANHARD 24

STATE OF TENNESSE)

25

26

27

28

) SS

MONROE COUNTY

1

	M.J. October
1	I, Missiah in the land, a follower of Yahshua the Messiah in the
2	laws of The Almighty Supreme Creator, first and foremost and the laws of man when
3	they are not in conflict (Leviticus 18:3,4). Pursuant to Matthew 5:33-37 and James 5:12
4	let my yea be yea, and my nay be nay, as supported by your Federal Public Law 97-280,
5	96 Stat. 1211.
6	
7	I have personal knowledge of the matters stated herein, am over the age of majority, and
8	hereby asseverate understanding the liabilities presented in your Briscoe v LaHue, 460
9	US 325. M/ / BURKHARD
10	I, hereinafter called "Affiant," comes now before all
11	the world and Affiant says to all the world the following:
12	Affiant's mailing location is:
13	Affiant hereafter is also called "Next Friend" in this matter
14	Nature of Cause of action
15	1) "The scope and flexibility of the Writ of Habeas Corpus-its capacity to reach all
16	manner of illegal detention - its ability to cut through barriers of form and procedural
17	mazes-have always been emphasized and jealously guarded by courts and lawmakers.
18	The very nature of the writ demands that it be administered with the initiative and
19	flexibility essential to insure that miscarriages of justice within its reach are surfaced and
20	correct," Harris v. Nelson, 394 U.S. 286 (1969).
21	
22	2) MISIACHAO on behalf of Walter Fitzpatrick III, (hereinafter the
23	petitioner) petitions this court as his next friend for a Writ of Habeas Corpus for release
24	of Walter Fitzpatrick III from his unlawful imprisonment and restraint of his liberty in
25	accordance with Article I, Section 9 of the Constitution of the united States of America.
26	NOTICE TO AGENT IS NOTICE TO PRINCIPAL NOTICE TO PRINCIPAL IS NOTICE TO AGENT
27	<u>Jurisdiction</u>
28	3) This application is made under the jurisdiction of the Constitution itself for
	subject matter jurisdiction and for violations of the First, Fourth, Fifth, Sixth, Seventh,

- 4) In this case there is no other plain, speedy, or adequate remedy at law, and there is no interest of the people served by the appellant's incarceration. The issuance of this writ is a right maintained as a matter of right where all Constitutional issues are heard as a matter of right and jurisdiction is by virtue of the Constitution which cannot be abrogated by any statute or session law.
- 5) No person shall be incarcerated for *malum prohibitum* crimes like failure to provide the government with a signature or plea because there is no injury to another person or property, and there is no apparent benefit to the complainant.
- 6) Under the common law, there can be no incarceration where there is no verified threat to public safety, threat to moral turpitude, or interference with interstate commerce. The appellant's incarceration, in this case, is counterproductive to society and its enforcement demonstrates a failure to protect natural and common law basic rights to freedom and productivity.

Parties

7) Affiant, the next friend, asserts that Walter Fitzpatrick III is being unlawfully detained by the following parties: Sheriff Bill Bivens, Monroe County Judges Donald Paul Harris, J. Reed Dixon, Jon Kerry Blackwood, Carroll L. Ross, Amy Armstrong Reedy, Attorney General James H. Stutts, Assistant Attorney General Steve Bebb, and his assistants Steve Morgan, Mike Morgan, and Officers Pat Wilson, Trent Prock, Captain Darron Bivens, Sheriff's Deputy Bennie Byrum, Officer Sergeant Billiamgworth, Officer Jim Kile, Madisonville Police Chief Gregg Breeden, Clerk Karen Wilburn, Martha Cook, Imposter Grand Juror s who have not shown evidence of proper oath of office nor lawful appointing orders - Imposter Grand Juror Foreman Faye Tennyson, Imposter Grand Juror Foreman Angela Davis, and Imposter Grand Juror Foreman Gary Pettway.

- 8) Walter Fitzpatrick III's sentence appears void and his confinement is unlawful. Affiant also asserts that it appears from the face of the judgment and the record of the proceedings that the trial court was without lawful subject matter jurisdiction based on the facts that the action stems from facially defective and Constitutionally infirm claims due to
 - A. the statutory infirmity of the grand jury being out of compliance with legislative term limits,
 - B. the prosecution being out of compliance with oath of office and Tennessee rules of criminal procedure for failing to produce a sworn, verified compliant
 - C. the judges exceeding constitutionally prescribed boundaries for oath of office when they unlawfully exercised Article III judicial power from their ministerial court that was absent subject matter jurisdiction due to conflicts of interest ,oath, lack of verified compliant and fraud on the court by officers of the court and an imposter Grand Jury Foreman.
 - D. the previous fraud on court from false, unproven, foundationless claims found in sentencing the defendant in error because judgment is /was void from the beginning and is without foundation lacking discovery and due to denial of due process in law.

Affiant petitions this court in good faith as his next friend for Walter Fitzpatrick III to be released from his/their detention within 72 hours of receiving this lawful notice.

- 9) Whatever its other functions, the great and central office of the Writ of Habeas Corpus is to test the legality of a prisoner's current detention. The Writ of Habeas Corpus not only provides a speedy device to test the constitutionality of detention, but also provides, where necessary, an evidentiary hearing to resolve significant factual or legal issues.
- 10) The Writ is an original proceeding, de novo, not simply a review of a lower court's ruling. The Writ petition does not seek review, but rather sets forth allegations

4 | 5 | 6 | t | 7 | 6 | 8 | r | 9 | S | 10 | t | 11 | 2 | I

11) NOTICE TO THE COURT: Use of all codes, laws and/or rules of procedure cited herein that may not be or represent law duly passed by the legislature of Tennessee, the state of the constitutional republic, United States of America; that government directly created through the sovereign electors on Tennessee; and/or that may not be or represent law enacted by that legislature acting in its jurisdiction over Tennessee, the state of the republic and in its jurisdiction over its state citizens domiciled on the land thereon, is only used here to notice the respondent(s) of that which is applicable to them and is not intended to be construed by this Court as an act of the imprisoned Walter Fitzpatrick nor the affiant in granting jurisdiction of such law over him/them, nor to be understood by the Court to mean that imprisoned Walter Fitzpatrick nor the affiant, the living soul, confers, submits to, or has knowingly and intentionally entered into any such other jurisdiction alluded to thereby.

12) Just the Facts as the Next Friend Understands Them

As grounds for relief requested, Affiant would show unto the Court the following:

Compliance with the mandatory provisions of due process in law does not appear on its
face to be present due to lack of sufficiency, facts, law and evidence on the record.

13) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that LDCR Walter Fitzpatrick, III (US Navy-Ret.) was not in fact taken by force on a public street on 23 September, 2011 in Monroe County, TN, and placed in prison under a 6 month sentencing after he walked out of an unlawful court proceeding where no formal sworn charges against him

¹ "A writ of prohibition shall lie as a matter of right in all cases of usurpation and abuse of power, when the inferior court has not jurisdiction of the subject matter in controversy, or, having such jurisdiction exceeds its legitimate powers."

were ever evidenced to be present; where no accuser was evidenced to be present, where no verified complaint was evidenced to be present from the beginning, where no witnesses to any unlawful acts were evidenced to be present, and where no charges from any proven unlawful act appear to be present where no lawfully seated Grand Jury appeared to be present, where no sworn lawful Grand Jury Foreman appeared to be present, where No evidence of True Bill supported by facts law and evidence that is free from fraud appeared to be present, where no oath or bond of presiding officials appear to be present.

14) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that LDCR Walter Fitzpatrick, III (US Navy-Ret.) did not in fact have a warrant that was sworn out against LCDR Fitzpatrick to arrest him, the basis for the false arrest against him, for not showing up in court for a hearing that did not need his presence due to lack of jurisdiction from the beginning, and that he was not ever lawfully served and properly notified of said court appearance. As a result, LCDR Fitzpatrick suffered injury from a home invasion: a 'no-knock' forced entry by sheriff's deputies exceeding lawful authority. The homeowner (LCDR Fitzpatrick) resisted the unlawful home invasion –and was subject to assault, when he was tasered, and injured by the assault and kidnapping (ear almost torn off). LCDR Fitzpatrick was himself falsely charged with (counter) assault and resisting a false and unlawful arrest.

See: what the high court says about this matter: re resisting a false and unlawful arrest "Citizens may resist an unlawful arrest to the point of taking an arresting officer's life if necessary." Plummer v. State, 136 Ind. 306. This premise was upheld by the Supreme Court of the United States in the case: John Bad Elk v. U.S., 177 U.S. 529.

15) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that LDCR Walter Fitzpatrick, III (US Navy-Ret.) was not in fact unlawfully held several times, some for over a month, in 2010 under deplorable conditions in the Monroe County jail on a variety of false and foundationless charges including inciting a riot, disorderly conduct, disrupting a lawful

1 record as exhibit attachment "A" that he did not recognize the Court or the Judge or the 2 Court's validity – based on the foregoing, and walked out. 3 The information contained in the lawful notice of Walter Fitzpatrick III read into the court record on September 23, 2011, and presented to the officers of the court orally that was the following. 4 For and on the record 5 I object to these proceedings because there is fraud on the court, Notice of lack of 6 jurisdiction is recorded 7 The absence of a law imposing legal responsibility in an indictment or true Bill or compliant is a denial of due process. 8 This court is without subject matter jurisdiction 9 You have failed to give me a full bill of particulars stating the true nature and cause of this court so I object to your court 10 The Filing of a false and fraudulent claim constitutes a fraud upon the court by enticing the court into collusion with the prosecution plaintiff by using forms of law to deprive the 11 defendant of defendant rights 12 You are without a claim or have failed to state a claim made under affidavit with penalties for perjury that is not flawed that relief that can be granted on so I object to your 13 court 14 You have failed to produce a genuine oath of office to show proper delegation of authority 15 A Malicious abuse of legal process occurs where the party employs it for some unlawful object, not the purpose which it is intended by the law to effect, in other words, a 16 perversion of the law 17 This court affords no due process of law by design: this court has no jurisdiction over me and no Jurisdiction over me and no lawful case against me. This courts's charges are 18 unconstitutional, unlawful and based in fraud and fiction, and thus this case must be dismissed. Any court that fails due process forfeits any perceived jurisdiction and any 19 rulings rendered are void, without force or effect, whatsoever. Because absent 20 jurisdiction, all acts undertaken under color of statute or ordinance are null and void from their inception. 21 I reserve all my rights including my right to subrogation ,remedy, and recourse against this fraud against me by all participants of this defacto court should you go forward 22 against and deprive of my life, my liberty, my fortune, or any of my God given rights 23 which are constitutional protected You are on notice by Walter Francis Fitzpatrick III, Untied States Navy Retired 24 With that our work here is finished and I take my leave 25 signed by Walter Francis Fitzpatrick III 26 27

19) Affiant is not aware of and has not seen any competent evidence from a

competent fact witness with first hand knowledge showing that there is any reason or

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sworn claim to the contrary whatsoever to dispute the integrity, veracity or truthfulness of LDCR Walter Fitzpatrick, III (US Navy-Ret.) lawful notice presented for and on the record to the court that day and affiant believes that they cannot produce said claim which is lawful grounds to dismiss the void judgment against Walter Fitzpatrick for lack of jurisdiction and to immediately release him from incarceration.

- 20) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that LDCR Walter Fitzpatrick, III (US Navy-Ret.) did not in fact experience the Judge sending armed deputies after him (unlawfully operating Article III powers from his administrative corporate court to cause summary imprisonment of Mr. Fitzpatrick blatantly against US Constitutional prohibitions) to capture him and bring him back into a Court he knew was void of jurisdiction, so the Judge could then say, in effect and with unlawful prejudice," I was going to give you Community Service, but since you disrespected this Court, I'm sentencing you to 6 months in prison."
- 21) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that affiant, as Walter Fitzpatrick's next friend, is in any way restricted from seeking habeas relief for his friend Walt Fitzpatrick based on the merits of the claim for relief he is advancing in this Writ based in facts, law and evidence pursuant to Art 1 sec 9 pursuant to US Constitution Cir 1787amended and Article I, Section 15 pursuant to Tennessee Constitution.
- 22) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that pursuant to US Constitution Cir 1787amended Art III Sec 2 that the judge and prosecutor can evidence Art III jurisdiction and Judicial power based on facts, law and evidence under sworn affidavit. As such, this unrebutted fact provides lawful grounds for voiding case # 10-213 and Case # 11-018 for lack of jurisdiction.

- 23) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that pursuant to US Constitution Cir 1787amended Art III Sec 2 that the judge and prosecutor can evidence subject matter jurisdiction for and on the record when they failed to identify the accusers and the law they accuse Mr. Fitzpatrick of violating under verified compliant under sworn affidavit in case # 10-213. As such, this unrebutted fact provides lawful grounds for voiding case # 10-213 and Case # 11-018 for lack of subject matter jurisdiction under violations of the 6th Amendment of the US Constitution and the holdings in the case of Chambers v Mississippi regarding a system that does not provide constitutional protection, "calls into question the 'ultimate integrity of the fact finding process."" quoting Chambers v. Mississippi, 410 U.S. 284, 295 (1973).
- 24) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that the prosecutor and judge have not in fact breached their oaths of office and forfeited any presumed jurisdiction when they failed to have the prosecutor verify the compliant and provide a sworn to Bill of Particulars.
- 25) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that Walter Fitzpatrick III has ever been provided a full and fair hearing, with material fact disclosure, regarding the identity and discovery of the accusers and a chance to challenge and confront his accusers in Case # 10-213 which voided jurisdiction and grounds for cases # 10-213 and case #11-018 and made each a procedural nullity and void.
- 26) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that Walter Fitzpatrick III was ever provided full material fact disclosure specifically a sworn Bill of Particulars

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 with essential elements identifying the true nature and cause of the instant action he was brought into because none were given under sworn affidavit, a violation of 28 USC 2254(d)(7) US Constitution Bill of Rights Art V, Tennessee Constitution 1 § 8. A Criminal process must allege every essential element of the offense. c; Hagner v US, 285 US 427; Hamling v US, 418 US 87, and quoting United States v. Cruikshank, 92 U.S. 542, 558 (1875): "it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition; but . . . it must descend to particulars.").

- 27) Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that Walter Fitzpatrick III has ever been provided proof of a certified copy of any of the judges' and or prosecutor's oaths of office who presided in any of the cases involving Walter Fitzpatrick III, verified and validated free from oath defects, proof of bonding, scope of office, to validate any position of authority of those who have caused him to be imprisoned. It is affiant's belief that either none exist or that none can be lawful proven.
- 28) Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that a Verified Complaint, and or any unrevealed secret maritime contract claim supported by a sworn affidavit, in the plaintiff accuser's unlimited commercial liability exists.
- 29) Affiant is not aware of and has not seen any competent documentary evidence presented from a competent fact witness with firsthand knowledge from Walter Fitzpatrick III's Grand Jury and trial administrative procedures which identifies "as required by law" any enacted law(statute) showing that it can be found.
- 30) Affiant is not aware of and has not seen any competent documentary evidence presented from a competent fact witness with firsthand knowledge from Walter Fitzpatrick III's Grand Jury and trial administrative procedures that can show a lawful

appointing order, oath of office, and compliance with Tennessee State code term limits for jurors to be constitutionally compliant for the Grand Jury Foreman Gary Pettway. Affiant believes they cannot. This renders Mr. Fitzpatrick's Grand Jury indictment null and void for fraud on the court for cases 11-018 and Inc Case No. 10-213. (Mr. Gary Pettway – 'Foreman' for 27 years in a row, in violation of Tennessee law TCA 22-2-314 that allows for no consecutive 1 year terms, even if lawfully sworn).

See: US Grand Jury Institute Inc. investigative report on Grand Jury conduct, Monroe County, Tennessee as attachment "C" incorporated by reference herein.

- 31) Affiant is not aware of and has not seen any competent documentary evidence presented from a competent fact witness with firsthand knowledge, from Walter Fitzpatrick III's Grand Jury and trial administrative procedures which identifies what law is being enforced against him.
- 32) Affiant is not aware of and has not seen any competent documentary evidence presented from a competent fact witness with firsthand knowledge, from Walter Fitzpatrick III's Grand Jury and trial administrative procedures which identifies what statute/law was cited that imposes any type of legal obligation and or responsibility on the defendant in error.
- 33) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, showing that the merits of the factual dispute were resolved in any state court hearing (violation of 28 USC 2254(d)(1) US Constitution Bill of Rights Art VII, Tennessee Constitution 1§ 6. It cannot be presumed that any clause in the constitution is intended to be without effect;..." Marbury v. Madison, 5 U.S. 137, 174 (1803))
- 34) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, showing that the fact finding

- 35) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, showing that the state court had any jurisdiction over Walter Fitzpatrick III in the state court hearing (i.e. no injured party was produced, and Walter Fitzpatrick was never properly within the court's jurisdiction) (violation of 28 USC 2254(d)(4) US Constitution Bill of rights Art IV, Tennessee Constitution 1 § 7, The Supreme Court holding in the case of Weeks v. United States, 232 U.S. 383 (1914), "evidence that was illegally obtained cannot be used in court!). Evidence used in case # 11-018 is the result of the fruit of a poisonous tree.
- 35) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, showing that Walter Fitzpatrick ever received a full, fair and adequate hearing in any state court proceeding (violation of 28 USC 2254(d)(6) US Constitution Bill of Rights Art VI, Tennessee Constitution 1 § 9. "when a judge inflicts punishment that the jury's verdict does not allow, the jury has not found all the facts which the law makes essential to the punishment, the judge exceeds his authority." Id. at 2537 and for other reasons more fully stated and contained herein: see BLAKELY V. WASHINGTON 542 US 296 No. 02—1632. S.Ct. 2531; 04 C.D.O.S. 5539, 5540; 2004 WL 1402697).

Regarding Any Commercial Questions That May Be Present:

35) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, showing that the entity calling itself

plaintiff and the STATE OF TENNESSE has a cause of action, right of action, or standing in their lower federal admiralty court nor has this lower federal admiralty court obtained lawful jurisdiction pursuant to the Constitution both state and national in this matter.

- 36) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, showing that the officers of the court are registered as foreign agents for foreign principals pursuant to 22 USC 611 with the Attorney General's Office as required by law.
- 37) Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that a lawful Verified Claim exists free from fraud and subsilencios supported by evidence that claimant can prove lawful exhaustion of administrative process before bringing this matter before a Court of Record.
- 38) Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge showing that a real true parties in interest disclosure statement was ever given prior to commencing ratification of proceedings in Walter Fitzpatrick III case.
- 39) Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge showing that a Verified Complaint, maritime lien claim, Letter of Marque and Reprisal, Bill of Attainder, Bill of Pains and Penalties, demands for prize and capture for booty, or any other demand for payment or performance instrument for debt exists free from fraud, supported by a sworn affidavit, in the plaintiff's accuser's unlimited commercial liability.

40) Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that a "SUBROGATION AGREEMENT" of any kind is factually in existence agreed to by the party attempting to enforce a performance or debt that contains the original true party in interest i.e., creditors' wet ink signature, Walter Fitzpatrick III's wet ink signature and the third party enforcer's wet ink signature on the same contractual agreement. Contract and breach of obligation cannot be presumed. It has to be proven. It is subject to the essential elements doctrine of a lawful contract.

- There must be the parties,
- There must be subject matter, of the agreement
- There must be legal consideration,
- There must be mutuality of agreement, and
- There must be mutuality of obligation

If it is found that any one of these is lawfully defective, Walter Fitzpatrick III has a lawful right to challenge subject matter jurisdiction of this case and void any contract claims under his right to a claim in recoupment.

41) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, showing that a bond containing lawful consideration and lawful subject matter jurisdiction is present to lawfully bond Walter Fitzpatrick III's case.

Notice: See Dluhos v Floating Abandoned Vessel 979 F. Supp. 138 (NDNY 1997) a vessel may not be presumed to be abandoned under the substantive law of admiralty. Because Mr. Dluhos (the accuser) did not post the bond required by the trial court, the court did not lawfully arrest the vessel and therefore lacked jurisdiction over the vessel in rem.

42) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, establishing that subject matter jurisdiction in Walt Fitzpatrick III's Incorporated Cases 10-213 and 11-018 is present

pursuant to USC 40 § 255 territorial jurisdiction and other reasons stated more fully herein. Walter Fitzpatrick III and his next friend named herein are one of the Sovereign people of Tennessee who's status is defined in Chisolm v. Georgia and 2 Corinthians 5:20 and are not a legal fiction, US INC. vessels, in rem constructive trust, corporate entity or any other artificially constructed fraudulent construct as denoted by the unauthorized spelling of affiant's family name and Walt Fitzpatrick III's family name in all capital letters as spelled on State Identification paperwork without explanation. Affiant and Walter Fitzpatrick III reserves all rights in law and equity /commerce and wishes to compel production of documentation specific to the establishment of the jurisdiction of the agent, principal and or agency and agents causing the incarceration of Walter Fitzpatrick III and ascertain the evidence of any constitutionally compliant oath of office, proof of bonding and delegation of authority for or on the record in their possession before a neutral notary officer to verify identity of any one responding to this writ and representing himself or herself as a government officer or agent prior to the commencement of any proceeding challenging the claims on this writ to avoid implications of "de facto officer doctrine".

- 43) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, establishing that Art 1 of the US Constitution has ever been lawfully repealed where it says no state shall make anything but Gold and Silver as tender in payments of debt or grant titles of nobility or grant Letters of Marquee or Reprisals, emit Bills of Credit, enter into any treaty alliances, or any confederation.
- 44) Affiant is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, establishing that Art V1 cl 3 section of the US Constitution circa 1787 amended in 1791 has ever been lawfully repealed where it says that this Constitution, and the laws of the United States, which shall be made in Pursuance thereof: and all Treaties made or which shall be made under the

Authority of the United States, shall be the supreme Law of the Land :and Judges in every State shall be bound thereby, any thing on the Constitution or Laws of any State to the contrary notwithstanding.

Doctrines Used to Deny Due Process Exposed

45) Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing by what authority the respondent(s) are allowed to use the following doctrines of: Prize and Capture, Booty, Stricti Juris, quasi-public service corporations, Volenti non fit injuria, quasi-"judicial", quasi-contractus courts, Unjust Enrichment, constructive trusts, cestui qui trusts, implied trusts. These various doctrines that appear present on various court documents appear to be wrongfully operating a denial of due process scheme and these doctrines and schemes appear to be used to unlawfully protect and conceal the ultra vires operations of the court machinery as they routinely bypass Walter Fitzpatrick III's Constitutional protections of due process in law.

Summary

46) Summarizing: In brief, the indictment of Walter Fitzpatrick III is lawfully defective and void and can not, as a matter of facts, law and evidence for and on the record, ever charge the defendant in error Walter Fitzpatrick III with a legal obligation. It appears that due process of law has never been afforded to Mr. Fitzpatrick in the trial and sentencing court since compliance with this constitutional mandate is an essential jurisdictional prerequisite to a court's authority to deprive an accused of his life, liberty or property.

"If this requirement of the Bill of Rights is not complied with, the court no longer has jurisdiction to proceed. The judgment of conviction pronounced by a court without jurisdiction is void, and one imprisoned there under may obtain release by habeas corpus." (See Johnson v Zerbst, 304 US 458, 467, 468 (1938).)

Notice use of case law is for fair use instructional purposes

Action in accordance with writ of right

- 47) In as much as the great writ is a Constitutional writ of right, and I, as a "person" as referred to by the term "any person", am thereby specifically authorized to exercise that right of the great writ PETITION. Either the party for whose relief the writ is intended, or any person for him, may present a petition to the proper authority for the purpose of obtaining relief.
- 48) It may not be construed by any court that the Legislature meant something other than any person when it specifically used that term. If the Legislature had intended that the right be restricted to the person accused, or his attorney, it must be construed by the rule of strict construction they would have stipulated just exactly that. Given the jealousy with which attorneys protect their professional preserve and the large number of attorneys making up our legislative bodies, it must be construed the issue of who may file the writ came up in the Legislative deliberations. As the Legislature included no limitation on who may file the writ, neither may any court take it upon itself to add restrictions not clearly stipulated by the Legislative language or the US Constitution.
- 49) "Where the language of a statute is unambiguous, and its meaning is clear, the statute must be given effect according to its terms," and "we are not at liberty to speculate upon the intention of the Legislature in its enactment. The proper function of the Court is to protect the people's rights from stealthy encroachment on their rights, declare and enforce the law as made by the Legislature without regard to the policy or wisdom of the act with acts outside the constitution not withstanding nor to the disastrous or mischievous results it may entail." See Gaddy v. First Nat. Bank of Beaumont, 115 Texas, 393, 283 S.W. 472." Board of Insurance Commissioners of Texas v. Guardian Life Insurance Company of Texas et al. 142 Tex. 630; 180 S.W.2d 906; 1944 Tex. LEXIS 205

 50) Pursuant to your Tennessee Code, the Writ of Habeas Corpus shall be granted without delay by the judge or court receiving the Petition. Furthermore, in this case failure to take action within seventy-two hours will be quite appropriately deemed a DENIAL BY DERELICTION OF DUTY and give immediate cause to take stronger Lawful actions.

- 55) Pursuant to your Tennessee Code no presumption of guilt arises from the mere fact that a criminal accusation has been made before a competent authority.
- 56) Pursuant to your Tennessee Code, Walter Fitzpatrick III is entitled to the Writ of Habeas Corpus relief since Affiant has not seen any sworn documentary facts placed in evidence by an accuser supported by facts, law and evidence from a competent fact witness with first hand knowledge that would rebut Walter Fitzpatrick III's lawful notice and this writ, the information contained therein and the affidavit regarding his challenge to subject matter jurisdiction nor rebut his notice given to the court on September 23, 2011 orally and in writing to support lawfully sufficient cause for requiring his release from incarceration and voiding the case against him.
- 57) Pursuant to your Tennessee Code, the judge or court before whom a person is brought by Writ of Habeas Corpus shall examine the Writ and the papers attached to it; and if no legal cause be shown for the imprisonment or restraint, or if it appears that the imprisonment or restraint though at first legal, cannot for any cause be lawfully prolonged, the victim shall be discharged.
- 58) Memorandum in law with points and authorities attached herein is incorporated by reference as Exhibit "B".

IGNORANCE OF THE LAW
IS NO EXCUSE

59) Habeas corpus is necessary to address the issues including but not limited to the following:

OFFER OF PROOF: UNLAWFUL INCARCERATION BY DENIAL OF DUE PROCESS

- 60) Walter Fitzpatrick III has been DENIED DUE PROCESS OF LAW AND UNLAWFULLY INCARCERATED. Your own Tennessee Code Superior evidence shows the Complaint is lawfully defective and insufficient. A proper evaluation of the substantive evidence considered by any competent Magistrate will find a lack of lawful sufficiency to support arrest or commitment pursuant to your Tennessee Code and the evidence will go to show FALSIFICATION OF THE RECORD AS RETALIATION AGAINST A WHISTLEBLOWER in matters lacking mens rea and actus reus.
- 61) MONROE COUNTY B.A.R. failed to obey their own Tennessee Code of Criminal Procedure creating aggravated assault and aggravated kidnapping under color of law, and are now engaged in RETALIATION AGAINST WHISTLEBLOWER Walter Fitzpatrick III, and have already DENIED DUE PROCESS OF LAW. Once due process is denied all jurisdiction ceases as per your own 5 USC §§ 556(d), 557, 706. Judges have no immunity as per your *Owen v. City of Independence*, 100 S Ct. 1398; *Maine v. Thiboutot*, 100 S. Ct. 2502; and *Hafer v. Melo*, 502 U.S. 21. Judges are deemed to know the law and sworn to uphold the law. Judges cannot claim to act in good faith in willful deprivation of the law. They certainly cannot plead ignorance of the law. Even the citizen cannot plead ignorance of the law. It is ludicrous for a learned judge to plead ignorance of the law. Therefore, there is no judicial immunity in matters of rights secured by the Constitution of the United States of America as per your own Title 42 USC §1983, Federal Tort Claims Act exception for unconstitutional acts, 18 USC §1962 RICO Act, and 18 USC §§ 241/242.

beareth rule, the people mourn." Proverbs 29:2

62) "If you are determined to execute a man in any case, there is no occasion for a
trial; the world yields no respect to courts that are merely organized to convict."
Robert H. Jackson, United States Prosecutor at Nuremberg

- 63) "An avidity to punish is always dangerous to liberty. It leads men to stretch. to misinterpret, and to misapply even the best of laws. He that would make his own liberty secure must guard even his enemy from oppression; for if he violates this duty he establishes a precedent that will reach to himself." Thomas Paine
- 64) CONSIDER WITH EXTREME CAUTION THE WORD OF OUR HEAVENLY FATHER SINCE THERE IS NO ESCAPE WHATSOEVER FROM HIS LAW AND JUDGMENT:
- 65) "When the righteous are in authority, the people rejoice; but when the wicked
- "Shall the throne of iniquity have fellowship with thee, which frameth 66) mischief by a law?" Psalm 94:20
- 67) "And said to the judges, Take heed what ye do: for ye judge not for man, but for Yahvah who is with you in the judgment. Wherefore now let the fear of Yahvah be upon you, take heed and do it: for there is no iniquity with Yahvah our Eloheim, nor respect of persons, nor taking of gifts." II Chronicles 19:6 & 7.

68) THIS UNABATED ABUSE GREATLY SHOCKS THE CONSCIENCE. IT IS EXTREMELY UNREASONABLE AND IT ABSOLUTELY UNDERMINES PUBLIC CONFIDENCE IN THE JUSTICE SYSTEM!!!

- 69) Walter Fitzpatrick III, a retired naval officer, is not a danger to himself nor to the society at large and any further restraint of liberty would be a crime against the people of this state and a dire threat to their freedom. This is affiant's first application for a Writ of Habeas Corpus and no application for a Writ of Habeas Corpus has previously been made by affiant in relation to this case.
- 70) It is readily apparent that unregistered foreign agents assume they can arbitrarily and capriciously determine the value of another living soul's time. However, when the matter involves Walter Fitzpatrick III, the unregistered foreign agents have no concept of what the actual value is. Indeed, all the resources of all the unregistered foreign agents in MONROE COUNTY and the STATE OF TENNESSE could not purchase a single nanosecond from Our Heavenly Father. Therefore they need to reconsider their actions and make restitution.
- 71) MONROE COUNTY and the STATE OF TENNESSE's employees may have excuses such as, "We have always done it like this" OR "I am only doing what I was told to do." Excuses such as these do not stand under the law (reference the Nuremberg Trials.) The seriousness of the matter is best stated in the Bible. The Bible is the "WORD OF GOD" as per Federal Public Law 97-280, 96 Stat. 1211, so according to the "WORD OF GOD" Walter Fitzpatrick III suffered an Exodus 21:16 MANSTEALING EVENT and the punishment is very severe.
- 72) Judge Edith Jones of the U.S. Court of Appeals for the Fifth Circuit, told the Federalist Society of the Harvard Law School on February 28, 2003, "The first 100 years

 of American lawyers were trained on Blackstone, who wrote that: 'The law of nature dictated by God himself is binding in all counties and at all times; no human laws are of any validity if contrary to this; and such of them as are valid derive all force and all their authority from this original.' The Framers created a government of limited power with this understanding of the rule of law – that it was dependent on transcendent religious obligation." The Gideon Society assures us of DUE PROCESS, PUBLIC NOTICE and OPPORTUNITY, furthermore those involved in the MANSTEALING are trained, educated, paid and sworn to know the law.

- 73) Therefore affiant sees no excuse for the unlawful conduct and affiant requires the names, job descriptions, bond information, the underwriters' address and subpoena addresses of each and every participant from policy maker, police (policy enforcers), sheriffs to jailers. Notice that the tuberculosis and staphylococcus aureus epidemics arising from the prisons and jails make it plain and clear that the environment is a reckless endangerment to life in the nature of attempted murder.
- 74) Is the "WORD OF GOD" adequate for MONROE COUNTY and STATE OF TENNESSE employees OR would the employees make a public declaration that they know better than GOD ALMIGHTY!!?? Forgiveness is available where there is repentance, therefore affiant is praying for the employees because God's Law is just like gravity, it works whether you believe in it or not!!
- 75) According to the Declaration of Independence, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty and the pursuit of happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed."

76) However, the employees of MONROE COUNTY are incompetent to act as a governmental authority, because they obviously do not understand that the purpose of government is to secure the rights of men rather than to negate them.

- 77) Dismissal is appropriate for the following fundamental reasons.
- No court has any right to act in neither bias nor prejudice nor deny protection of due process.
- No facts have been provided to affiant nor Walter Fitzpatrick III that would rebut The affidavit contained herein and the notice given to the court of September 23, 2011 by Walter Fitzpatrick in open court
- No facts have been SEEN by either affiant or Walter Fitzpatrick III nor evidenced to either one, nor provided to the court and to either one under sworn oath and affidavit and affiant and Walter Fitzpatrick III do not believe they exist
- There have not been any facts provided by the plaintiff in error, the attorney, or anyone else bearing the seal of a notary and seal of a true real party in interest who is alleging a Lawful Claim or loss that is free from fraud because of the reasons contained herein this habeas writ for relief.

FIRST CAUSE OF ACTION FOR DISMISSAL AND RELIEF CONFRONTATIONAL CLAUSE - SIXTH AMENDMENT

78) As a first, separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 in this instant action to vacate the Plaintiff in error's foundationless false Claim herein, the petitioner Walt Fitzpatrick III through his next friend alleges that:

79) The trial court illegally imposed punishment in petitioner's case in violation of the Sixth Amendment to the United States Constitution. "When a judge inflicts punishment that the jury's verdict does not allow, the jury has not found any and all the facts under unrebutted sworn affidavit from an accuser which the law makes essential to the punishment, the judge exceeds his authority." Id. at 2537 and for other reasons more

information that is favorable to the defense.

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fully stated contained herein: The right to confront the accuser, to discover the true nature and cause of the proceedings and for the accused to present evidence to declare his innocence is a constitutional, foundational, protected right. The Sixth Amendment also guarantees defendants the right to use the compulsory process of the judiciary to subpoena witnesses who could provide exculpatory testimony or who have other

see BLAKELY V. WASHINGTON 542 US 296 No. 02—1632. S.Ct. 2531; 04 C.D.O.S. 5539, 5540; 2004 WL 1402697 and see Crawford v. Washington, 541 U.S. 36

80) When a prosecutor refers to unsworn facts outside the record, he or she is effectively acting as an unsworn witness who has not been subjected to crossexamination. (People v. Bolton 23 Cal.3d 208, 214-215, fn. 4.) Under these circumstances, a Sixth Amendment violation is shown. (Ibid.; accord People v. Johnson (1981)121 Cal.App.3d 94, 104.)

SECOND CAUSE OF ACTION FOR DISMISSAL

- 81) Denial of Due Process and equal protection of the law in violation of Tennessee State Constitution and the Fifth and Fourteenth amendments to the US Constitution and Magna Carta
- 82) As a second, separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim/complaint on file herein this petitioner through his next friend alleges that Absence of State fact-findings: inadequate State fact-findings, absence of a meaningful State hearing: State hearing process has not been "full and fair" from the beginning and has violated due process rights, guarantees and protection provisions of the US Constitution. State fact-findings are unsupported by the record: state court lacked jurisdiction from the beginning against Walter Fitzpatrick III in the state court hearing, i.e. no injured party was produced, no sworn verified compliant containing an essential Bill of Particulars was ever given by the prosecutor, and no Article III power under oath was proven present

therefore Walter Fitzpatrick III was never properly within the court's jurisdiction (see 28 USC 2254(d)(4)).

- 83) The Judge and Attorney General Prosecutor are fully aware that a criminal process must allege every essential element of the offense. c; Hagner v US, 285 US 427; Hamling v US, 418 US 87, and quoting United States v. Cruikshank, 92 U.S. 542, 558 (1875): "it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition; but . . . it must descend to particulars."
- 84) Note: the primary goal of the Framers of the Fourteenth Amendment was to duplicate the inherent meaning of the Fifth Amendment's clause, and to generally follow judicial interpretation of the Fifth Amendment. It is well-known that the federal Due Process Clause has its origins and authority derived in the "law of the land" clause of Magna Carta. The Due Process Clause refers to a process of law and authorities held in the US Constitution that is owed to a person according to "the law of the land," rather than according to some different set of principles or beliefs.
- 85) The phrase "law of the land" refers to positive law, as well as compatible common law ie." no freeman ought to be taken, imprisoned, or disseised of his freehold, liberties, privileges or franchises, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty or property but by the law of the land."
- 86) Quoting Justice Bradley, "Failure to provide all process that is due may not normally be treated as harmless error, according to the Due Process Clause, and statutes may not normally treat it as such." Violation of 5th and 14th Amendments of the U.S Constitution of Due process and equal protection of the law are shown here.

- The denial of access to transcripts and records
- The denial of meaningful access to a Court of Record and
- Failure to allow the petitioner to be reasonable heard and to confront his accusers
- Failure to allow the petitioner to compel discovery and
- Failure to allow the petitioner to call witnesses in his favor
- Execution of jurisdictionally facially foundationless declarations
- Filing of jurisdictionally facially foundationless and unsworn complaints
- Month long confinements as retaliation for challenging the unlawful behaviors of the Officers of the Tennessee courts, for calling the question of misconduct and fraud by the respondents
- Protection of jury fixing and jury tampering schemes of judges, prosecutors
 as well as Imposter Grand Jury Foreman Gary Pettway and others who are
 out of constitutional compliance for exceeding statutorily set 1 year term
 limits and for not evidencing lawful appointing orders and oaths,
- Judges and prosecutors willfully retaliated, jail and have injured Walter
 Fitzpatrick for exposing their nefarious dirty hands enterprise and it's
 protection racket and rights violations by the respondents.

Petitioner Walter Fitzpatrick III, through his next friend, believes that lack of subject matter jurisdiction; depravation of federal and state protected rights under the Tennessee State Constitution and US Constitution Art 1 Sec 9 and Amendments 1 and 4-10, under color of authority; use of Fraud on the court;, breach of constitutional compact contract for dishonest services fraud and other frauds present on the court; denial of discovery during facially foundationless trials; intentional denial of due process in law; use of excessive, coercive and dangerous force with taser gun and physical force; attempts at intimidation through multiple jailings; stalking; threats; negligence; breach of duty; and

possible securities fraud ,conspiracy , and a Rico enterprise may appear to most reasonable people to be evidence of prosecutorial vindictiveness.

- 89) A quote from the Declaration of Independence is applicable in this case, "in every stage of these oppressions we have petitioned for redress in the most humble terms. Our petitions have been answered only by repeated injury."
- 90) The respondent(s) do not state and the proceedings do not show any lawful Art III authority or jurisdictional facts on it's face enabling the respondent(s) to lawfully take dominion over a People of the United States in breach of Art VI cl 3. Lacking such jurisdiction, their actions can only be under color of law, moral turpitude and in violation of due process of law provisions of the US Constitution, in order to execute their own private agendas, whatever they may be (perhaps barratry, i.e. the offense of frequently exciting and stirring up quarrels and suits, either at law or otherwise). They are vindictive, vexatious, and retaliatory and appear criminally minded.
- 91) The Petitioner through his next friend would normally bear the burden of proving facts on which claim for relief is based, but since the record overwhelmingly speaks for itself with the mountain of evidence given herein of increased and additional charges, violating due process supporting charges of prosecutorial vindictiveness is at issue, petitioner as only needing to demonstrate facts giving rise to presumption of vindictiveness at which time, even on habeas corpus, burden shifts to respondent(s) to rebut resumption. In re Bower (1985) 38 Cal3d 865, 872, 215 CalRptr 267, 700 P2d 1269.
- 92) The Fifth Amendment, made applicable to the states through the Fourteenth Amendment, commands that "no person . . . shall be compelled in any criminal case to be

a witness against himself." The essence of this basic constitutional principle is "the requirement that the State which proposes to convict and punish an individual produce the sworn verified compliant evidence against him by the independent labor of its officers, "Culombe v. Connecticut, 367 U.S. 568, 581 -582 (1961). In Torres v Superintendent of Police Puerto Rico essential element that misuse of the legal proceeding was so egregious that he suffered depravation of constitutionally secured rights

FORTH CAUSE OF ACTION FOR DISMISSAL CAUSE OF ACTION FOR DISMISSAL

(Failure to State a Claim for which relief can be granted)

93) As a forth, separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 in this instant action to vacate the Plaintiff in error's foundationless false Claim herein, the petitioner Walt Fitzpatrick III through his next friend alleges that for said Plaintiff in error's Foundation-less false Claim/compliant, each and every statement contained therein is not supported by a notarized sworn affidavit by a competent fact witness with first hand knowledge therein fails to state a claim in which relief can be granted. An Inchoate claim does not meet the pleading requirements of Civil Rules which states that a complaint: "shall contain a short and plain statement of the claim showing that the pleader is entitled to relief." Courts routinely dismiss complaints, such as the present one, wherein the facts are absent and the underlying legal theory incomprehensible. Brown v. Califano, 75 F.R.D. 497 (D.D.C. 1977).

FIFTH CAUSE OF ACTION FOR DISMISSAL

(Laches)

94) As a Fifth, separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim/complaint on file herein this petitioner alleges that said claim seeks relief and its inequitable conduct appears to constitute laches and therefore creates a bar to the granting of relief to Plaintiff herein. See The Alter-Ego Instrumentality Rule and Maxims of Law 'strictissimus jurisi', 'respondiat superior', 'beneficio ordonis'

SIXTH CAUSE OF ACTION FOR DISMISSAL

(Mitigation of Damages)

95) As a sixth, separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim herein this petitioner through his next friend alleges that Plaintiff has failed to take all reasonable steps to mitigate its damages, if any have been incurred. The attorney alleging harm presenting his foundationless false claim /compliant fell into estoppel since I see no facts under sworn notarized affidavit being presented here in evidence to justify opening this matter up for further inquiry.

SEVENTH CAUSE OF ACTION FOR DISMISSAL

(Statute of Frauds)

96) As a seventh separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim herein this petitioner through his next friend alleges that Plaintiff in error is barred by the provisions of Tennessee Criminal Code, Tennessee Constitution and US Constitution.

EIGHT CAUSE OF ACTION FOR DISMISSAL

(Unclean Hands)

 97) As an eighth, separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim herein against Walter Fitzpatrick the petitioner through his next friend alleges that Plaintiff in error, because of its unclean hands, and by reason thereof, should be precluded from recovering in the within action.

NINTH CAUSE OF ACTION FOR DISMISSAL

(Estoppel)

98) As an ninth, separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim herein this petitioner through his next friend alleges that Plaintiff in error is barred because Plaintiff in error has appeared to engaged in bad faith, unclean conduct and activity with respect to the subject of his litigation, and by reason of said activities and conduct should be estopped from asserting any claims for damage or seeking relief against petitioner Walter Fitzpatrick III.

TENTH CAUSE OF ACTION FOR DISMISSAL (Waiver)

99) As a tenth, separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim herein this petitioner through his next friend alleges that Plaintiff in error is barred because Plaintiff in error has engaged in the appearance of unclean conduct and activities sufficient to constitute a waiver of any alleged breach of contract, or any other conduct, if any, as set forth in the Claim and order of court.

 100) As an eleventh separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim herein, this petitioner alleges through his next friend that Plaintiff in error is barred due to the appearance of negligence of Plaintiff in error or other parties involved in the present action.

TWELVETH CAUSE OF ACTION FOR DISMISSAL

(Improper Service)

101) As an twelfth separate, and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim herein, this petitioner alleges through his next friend that Plaintiff in error is barred because Petitioner Walter Fitzpatick III was not the party served in this matter and comes into this court by special appearance through his next's friend's Writ for Habeas Corpus relief to vacate this matter without prejudice since use of a misnomer and misrepresentation of the petitioner's family and trade name was discovered. Attorney for the Plaintiff in error must explain why he used this fraudulent contrivance on the court and employed a constructive trust, by what lawful authority was he authorized to use it and what is the evidence of a trust indenture and corporate filings that created it.

102) If he cannot make full material fact disclosure of this identity theft, a fraud on the court, and explain all the doctrines and schemes behind it, exposing the lawful reason for using this procedural phantom all capital letter name, then this case is to be vacated for being irregular on it's face without prejudice for having committed a felony tort for fraud on the court and intentionally falsifying a public record. Petitioner Walter Fitzpatrick III specifically objects to the theft and unauthorized use of his family trade

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name being converted into a constructive trust for unrevealed reasons and purposes undisclosed.

103) WHEREFORE, this petitioner through his next friend prays the following: RELIEF AND REMEDY DEMANDED

104) Therefore, the petitioner through his next friend demands that a Writ of Habeas Corpus be granted instantly and issued to inquire into the restraint upon the liberty of Walter Fitzpatrick III. The Writ is being directed to Bill Bivens, MONROE COUNTY Sheriff, commanding him to bring any and all evidence and documentation under sworn affidavits with penalty for perjuries before the Court at the time and place therein to be specified, in order to provide a written answer and any rebuttals to the claims made herein with specificity and particularity, point by point, with return thereof as to why the said Walter Fitzpatrick III is still being restrained of liberty and should not be released; to the end that upon said execution of said Writ that the complete discharge from custody will be effected and the said Walter Fitzpatrick III may be properly restored to his liberty.

- 105) Sanctions for any party responsible for unnecessary delay in hearing this matter and furthermore, time and costs related to this action pursuant to your own Tennessee Code of Criminal Procedure Article at the rate customary for a licensed attorney since a workman is worthy of his hire.
- 106) The return to Walter Fitzpatrick III of any and all fingerprints, photographs, and information sheets and/or data storage to expunge the record of this travesty, and 100 dollars U.S. per fingerprint card, photograph, or information sheet, per party, per day until ALL his property is returned to him.

107) Affiant is not an expert in the law however affiant does know right from wrong. If there is any human being damaged by any statements herein, let said human being inform affiant by sworn facts and affiant will sincerely make every effort to amend his ways. Affiant hereby and herein reserves the right to amend and make amendment to this document as necessary in order that the truth may be ascertained and proceedings justly determined. If the parties given notice by means of this document have information that would controvert and overcome this writ and Affidavit, please Notice affiant IN WRITTEN AFFIDAVIT FORM within ten (10) days from receipt hereof providing affiant with your counter affidavit, proving with particularly by stating all requisite actual evidentiary fact and all requisite actual law, and not merely the ultimate facts or conclusions of law, that this Affidavit Statement is substantially and materially false sufficient to change materially Walter Fitzpatrick III's status and these factual declarations.

108) This deed is made under Necessity-of-Law in order to protect affiant and affiant's friend Walt Fitzpatrick III's unalienable interests from trespass and harm with specific reference to Affiant's Right of Subrogation and Right of Recourse should harm occur to affiant's protected rights herein. Your silence stands as consent to, and tacit approval of, the factual declarations herein being established as fact as a matter of law. May the will of our Heavenly Father (Yahvah), through the power and authority of the blood of His Son (Yahshua) be done on Earth as it is in Heaven.

Reserving ALL Natural God-Given Unalienable Birthrights, Waiving None, Ever,

28 USC §1746 additional addendum added page 35 A incorporated by reference herein

110) I declare under penalty of perjury, under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. 28 USC §1746

Signed on this the ______ day of October in the year of our Lord and Savior two thousand eleven

Republie.

Affiant autograpgh

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Case 3:12-cv-00048 Document 1-1 Filed 01/30/12 Page 35 of 196 PageID #: 14

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Page 35 A

Addendum to the Petition for Habeas Corpus Relief for Walter Fitzpatrick III, a Man Unlawfully Imprisoned

THIRTEENTH CAUSE OF ACTION FOR DISMISSAL

(Denial of Equal Protection of the Law, Denial of Due Process in Law and Violations of the Seventh and Tenth Amendments)

As an Thirteenth separate and affirmative Cause of Action for Dismissal of cases Inc Case No. 11-018 and Inc Case No. 10-213 to vacate the Plaintiff in error's Claim herein, this petitioner alleges through his next friend that the Plaintiff(s) in error is barred from making any claims due to the appearance of a breach of oath and violation of the seventh and tenth Amendments to the Bill of Rights to the US Constitution by all police, sheriff, sheriff's deputies and judges when they failed to allow LDCR Walter Fitzpatrick, III (US Navy-Ret.) to effect a citizen's arrest on Gary Pettway. Mr. Pettway was caught in the active commission of a felony for jury tampering and fraud by attempting to operate as a grand jury foreman in violation of Rule 6(g) of the RCP which requires that the foreman "shall possess all the qualifications of a juror," who cannot have served on a jury within the preceding 24 months according to TCA 22-2-314. Judge Jon Kerry Blackwood has stated that "the grand jury foreman is no different than any other member of the grand jury."

Affiant is not aware of and has not seen any competent evidence from a competent fact witness with first hand knowledge showing that LDCR Walter Fitzpatrick, III (US Navy-Ret.) did not in fact experience officially sponsored misconduct, armed rebellion and insurrection by police, Sherriff Bill Bivens, his deputies and the judge when he attempted to arrest Gary Pettway on April 1, 2010 and was himself arrested by police captain Darron Bivens on orders from a judge who denied LDCR Walter Fitzpatrick, III (US Navy-Ret.) his duty to uphold and defend the US Constitution and his constitutionally protected right to make a citizens' arrest on Gary Pettway and have access to a constitutional court of record to hear his claims according to the common law, a violation of due process in law and the seventh and tenth Amendments.

No	
Ex Rel M. 7) 10th Judicial DISTRICT
Relator, Mart frie	,
Address BIT WIMPAR CIR	MONROE COUNTY
BLANSVILLE, GA 30512	Tennessee
Phone# 706-745-7201)
	ORDER GRANTING WRIT OF HAB
Brought on behalf of the unlawfully) CORPUS Regarding the matter of the Habeas Corpu
imprisoned man	For Walter Fitzpatrick III
Walter Fitzpatrick III Petitioner	regarding the matter
v.) of Inc Case No. 11-018 and
MONROE COUNTY SHERIFF) Inc Case No. 10-213
Respondent Bill Bivens et al and) Date: October, 2011
TATE OF TENNESSE et al,) Time: 11:00 a.m.
Real Party in interest) Courtroom:
)
)
III, duly signed and verified by Fitzpatrick III is illegally and unlawfully	, CANCHAGO on behalf of Walter Fitzpa , whereby it appears that the said Walter Fitzpa , whereby it appears that the said Walters and Walter Fitzpa restrained of his liberty by Bill Bivens, MON ne alleged illegality and unlawfulness exists,
which it appears that a writ of Habeas Co	orpus ought to issue;
IT IS THEREFORE ORDERED that a	Writ of Habeas Corpus be issued by the Co
	NTY Court in Tennessee, directed to the said
Clerk under seal of the MONROE COUN	
	stated above, commanding him to have the
Bivens, MONROE COUNTY Sheriff, as of Walter Fitzpatrick III before the MO	NROE COUNTY Criminal Court, on the _
Bivens, MONROE COUNTY Sheriff, as of Walter Fitzpatrick III before the MOlday of October, 2011, at o'clock _	NROE COUNTY Criminal Court, on the AM, of that day, to do and receive what
Bivens, MONROE COUNTY Sheriff, as of Walter Fitzpatrick III before the MOlday of October, 2011, at o'clock _ then and there be considered concerning	NROE COUNTY Criminal Court, on the AM, of that day, to do and receive what the said Walter Fitzpatrick III and have p
Bivens, MONROE COUNTY Sheriff, as of Walter Fitzpatrick III before the MOIday of October, 2011, at o'clock _ then and there be considered concerning return, according to law, endorsed upon t	NROE COUNTY Criminal Court, on the AM, of that day, to do and receive what the said Walter Fitzpatrick III and have put he writ.
Bivens, MONROE COUNTY Sheriff, as of Walter Fitzpatrick III before the MOlday of October, 2011, at o'clock _	NROE COUNTY Criminal Court, on the AM, of that day, to do and receive what the said Walter Fitzpatrick III and have put he writ.

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No	
Ex Rel) 10th Judicial DISTRICT
Relator, Man (ALCHARD) Next friend	CIRCUIT COURT
Address 897 Wilmal Cir.) MONROE COUNTY
SiAUSVICE , (017 30)5[2] Phone# 706-766-1201	Tennessee
1011c# (95 /45 / W)	WRIT OF HABEAS CORPUS
Brought on behalf of the unlawfully) Regarding the matter of the Habeas Corpus
imprisoned man) For Walter Fitzpatrick III
Walter Fitzpatrick III Petitioner	regarding the matter of Inc Case No. 11-018 and
v.) Inc Case No. 10-213
MONROE COUNTY SHERIFF)
Respondent Bill Bivens et al and) Date: October, 2011 Time: 11:00 a.m.
STATE OF TENNESSE et al,) Courtroom:
Real Party in interest)
)
	_)
WRIT OF HABEAS CORPUS	
To Bill Bivens, MONROE COUNTY She	eriff
Greeting:	
Greeting: You are commanded to have the body	y of Walter Fitzpatrick III, alleged to
0	•
You are commanded to have the body restrained by you, by whatsoever nam	e the said Walter Fitzpatrick III shall
You are commanded to have the body restrained by you, by whatsoever nam called or charged, before the MONI	e the said Walter Fitzpatrick III shall
You are commanded to have the body restrained by you, by whatsoever nam called or charged, before the MONI courthouse in said county on the	e the said Walter Fitzpatrick III shall ROE COUNTY Criminal Court, at day of October, 2011, at 11 o'clock A.
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You are commanded to have the body restrained by you, by whatsoever nam called or charged, before the MONI courthouse in said county on the and state in writing under oath the truth is restrained of liberty by you and what on the return of the writ hereof and attavirtue of which you hold him in custody heavy penalties denounced by law agains	e the said Walter Fitzpatrick III shall ROE COUNTY Criminal Court, at day of October, 2011, at 11 o'clock A. h or not that the said MONROE COUN authority or for what cause he is restrained a copy of the writ or warrant, if any, at those who disobey this Writ and to sub

Witness, ______, clerk of the MONROE COUNTY Court, and the seal thereof hereto affixed at Tennessee, this _____ day of September, 2011. (seal)_____ MONROE COUNTY Clerk by _____Deputy



1	Affidavit of PROOF OF SERVICE
2	
3	State of BOCETA
4	County of UNION
5	I am domiciled within the above county, State of GEORGIA; I am over the
6 7	age of eighteen years and not a party to this action.
8	
9	My address is;
10	B97 WILMAR CR BLAINSVILLE, BA 30512
11	l
12	On OCTOIGH, 2011, I served the foregoing;
13	Shefrif Bill Bivens et al
14	or another holding Walt Fitzpatrick in custody
15	
16	
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18	By placing a true copy thereof with each of them, and enclosed in a sealed
19	envelope with postage thereon fully prepaid, in the United States mail.
20	
21	I declare under penalty of perjury under the laws of the State of Tennessee, that the
22	foregoing is true and correct.
23	
2425	Date: 0000 6, 2011
26	Name: M.J. BUANCHARD
27	Date: OCTOBER 6, 2011 Name: M, J, BUANCHARD MATO DO

1	No	
2		
3	Ex Rel	10th Judicial DISTRICT
4	Relator, Next friend	CIRCUIT COURT
5	M.S. BERNEHARD	MONROE COUNTY
6	897 CUILMAR CIR)	Tennessee
7	Address Bransville, 6730512)	Exhibit Attachment "A"
′	Phone# (06/145-770)	September 21 2001 Lawful notice read into the court record
8	The Unlawfully imprisoned	and presented to the court by
9	Walter Fitzpatrick III Petitioner	Walter Fitzpatrick III
10	v.	regarding the matter
11		of Inc Case No. 11-018 and Inc Case No. 10-213
	MONROE COUNTY SHERIFF	1110 0000 1101 110 110
12	Respondent Bill Bivens et al and	Lawful notice to those doing
13	STATE OF TENNESSE et al,	their unlawful acts against Walter Fitzpatrick III
14	Real Party in interest	wateer frezpacties in
15	Real Faity in interest	
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		achment "A"
20	· · · · · · · · · · · · · · · · · · ·	001 Lawful Notice and presented to the court by
21		I regarding the matter
22	of Inc Case N	Vo. 11-018 and
23	Inc Case I	No. 10-213
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STATEMENT of Walter Francis Fitzpatrick, III, United States Navy Retired.

FOR AND ON THE RECORD

I object to these proceeding because of fraud on the court. Notice of lack of jurisdiction is recorded.

- The absence of a law imposing legal responsibility in an indictment or True Bill or complaint is a denial of due process.
- This court is with out subject matter jurisdiction.
- You have failed to give me a full bill of particulars stating the true nature and cause of this court so I object to your court.
- The filing of a false and fraudulent claim constitutes a fraud upon the court by enticing the court into collusion with the prosecution plaintiff by using forms of law to deprive the defendant of defendant rights.
- You are without a claim or have failed to state a claim made under affidavit with penalties for perjury that is not flawed that relief that can be granted on so I object to your court.
- You have failed to produce a genuine oath of office to show proper delegation of authority.
- A malicious abuse of legal process occurs where the party employs it for some unlawful object, not the purpose which it is intended by the law to effect; in other words, a perversion of the law.
- This court affords no due process of law by design; this court has no jurisdiction over me and no lawful case against me. This court's charges are unconstitutional, unlawful and based in fraud and fiction, and thus, this case must be dismissed. Any court that fails due process forfeits any perceived jurisdiction and any rulings rendered are void, without force or effect, whatsoever. Because absent jurisdiction, all acts undertaken under color of statute or ordinance are null and void from their inception.

I reserve all my rights including my right to subrogation, remedy and recourse against this fraud against me by all participants of this de facto court should you go forward against me and deprive me of my life, my liberty, my fortune or any of my God given rights which are constitutionally protected.

You are on notice by Walter Francis Fitzpatrick III, United States Navy Retired.

With that our work here is finished and I take my leave.

Walter Drama's Stapateick, III WHED STATES NAVY RETIRED FRIDAY, 23 SEPTEMBER 2011

1	EXHIBIT B No	
2	exilisit B	
3	Ex Rel) 10th Judicial DISTRICT
4	Relator, Next friend) CIRCUIT COURT
5	M. J. BLANCHARD	MONROE COUNTY Tennessee
6 7	Address EGILLICMAR CIR	Exhibit Attachment "B"
	Phone# 706-745-7201) Memorandum in Law With Points and Authorities
8	The Unlawfully imprisoned	regarding the matter of the
9	Walter Fitzpatrick III Petitioner	Habeas Corpus For
10	v.) Walter Fitzpatrick III n regarding the matter
11		of Inc Case No. 11-018 and
12	MONROE COUNTY SHERIFF	/ Inc Case No. 10-213)
13	Respondent Bill Bivens et al and STATE OF TENNESSE et al, Real Party	Lawful Notice to Those Doing Unlawful Acts Against
14	in interest	' Walter Fitzpatrick III)
15		Date: October , 2011
16) Time: 11:00 a.m.
17) Courtroom:
18)

Memorandum in Law
with Points and Authorities
regarding the matter of
Inc Case No. 11-018 and
Inc Case No. 10-213
Lawful Notice to Those Doing Unlawful Acts
Against Walter Fitzpatrick III

1) Re Breach of Oath

"The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law." Marbury v Madison, 5 US 137

2) The U.S. Supreme Court has stated that "no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." See also *In Re Sawyer* 14 U.S. 200(188); *U.S. v Will*, 449 U.S. 200, 216 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821).

3) Defects or imperfections of form is no excuse to quash writ and proceeding when substantive justice is at stake

"And be it further enacted. That no summons, writ, declaration, return, process, judgment, or other proceedings in civil cases in any of the courts or the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects or want of form in such writ, declaration, or other pleading, returns process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and wants of form, other than those only which the party demurring shall express as aforesaid, and may at any, time, permit either of the parties to amend any defect in the process of pleadings upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe (a)"

Judiciary Act of September 24, 1789, Section 342, FIRST CONGRESS, Sess. 1, ch. 20, 1789

4) Court errs if Court dismisses if court fails to inform pr se how to cure pleadings This court is noticed of Controlling doctrine: The court errs if the court dismisses the pro se litigant's compliant without informing the pro se litigant of how to cure the pleadings see *Platsky v. C.I.A 953 F2d. 25*.

6) The Supreme Court of the United States as well as lower courts have consistently

- reaffirmed the requirement that once jurisdiction is challenged those who claim jurisdiction must submit evidence to prove the validity of the claim see Twining v New Jersey, 211 U.S 78,29 SCt,24 (1908), Old Wayne Mutual life Association v Mc Donough, 204 US *, 27 S.CT 236 (1907) Scot v Mc Neal, 154 U.S 34 14,S.Ct. 1108 (1984), Pennoyer v Neff, 95 U.S 714 733 (1877), Hagen v Lavine, 415 U.S 528, at 533, 39 L.ed. 577, 94 S.Ct/1372 (N.Y.March 28 1974) United states v Roger, 23 F 658, (W.D.Ark (1885) State of Maine v Thiboutot, 448 U.S. 1,100 S.CT2502 (1980), Mc Nutt v General motors acceptance Corp of Indiana,inc, 298 U.S 178, 80 L Ed, 1135, 56 S.Ct.780 (9136),
- 7) (<u>Jurisdiction must never be presumed</u>), Special indemnity Fund v Pruitt, 205 F2d, 306, 201 Okl. 308 (<u>jurisdiction must be affirmatively shown</u>), United States v Chairito, 69 F Supp. 317 (D or 1946) (<u>jurisdiction cannot be presumed</u>) Standard v Olesen, 98 Led 1151, 74 Sct 768 (1954), Garcia v Dail, 586 S.W.2d 534, at 528, (tex.C.A. 1980) (<u>Lack of jurisdiction requires dismissal</u>), Burks v Luskar, 441 U.S 471 (1979) Title 5 U.S.C §§ 556 & 558 (b)

8) Re: Void Judgments - SEE 5 ABOVE

The facts showing the existence of jurisdiction must be affirmatively in the record. If jurisdiction is challenged the burden is on the party claiming jurisdiction to demonstrate that the court has jurisdiction over the subject matter. The limits upon the record proving jurisdiction once jurisdiction is challenged is mandatory not discretionary.

9) Defining Extortion, and economic harm is a violation of the Hobbs Act

Wrongful use of threatening... or fear of economic harm To surrender a federally protected rights constitutes extortion within the meaning of 18 U.S.C. 1951(b) (2) see, United States v. Sweeney, 262 F2d 272 (3rd Cir. 1959); United States v. Kenny, 462 F2 1205 (3rd Cir.) cert. denied, 409 U.S. 914, 93 S. Ct. 234. 34 L.Ed.2d 176 (1972) United States v. Provenzano, 334 F2d 678 (3rd Cir.) cert. denied 379 U.S. 212, 80 S. Ct. 270, 4 L.Ed.2d 544. "fear or wrongfully threaten economic lose also satisfies the Hobbs Act. The Supreme Court in Mathges v. Eldridge, 424 U.S. 319 344 held "the rules minimize substantively unfair treatment or mistake, deprivation by enabling a person to contest the basis upon which a state proposes to deprive them of a protected interest."

10) Malice Gives Rise to Punitive Damages

See 86 N.Y. Jur. Process and Papers 137; Hauser v. Bartow, 273 N.Y. 370, 374.7 N.E.2d 268, 269-70 (1937). malice may give rise to a claim for punitive damages.

"Every person who, under the color of any statute, ordinance, regulation, custom, or usage, of any State or territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the person injured in an action at law, suit in equity, or other proper proceeding for redress."

11) Immunity is not a bar to injunction relief under Section 1983

See <u>Pulliam v. Allen</u>, 466 U.S. 522 (1984) which held: the Court ruled that judicial immunity was not a bar to prospective injunction relief under section 1983. The opinion declared that Congress enacted section 1983... to provide an independent avenue for the protection of federal constitutional rights... <u>because state courts were being used to harass and injure individuals....</u>

The Court noted that 'every member of Congress who spoke to the issue assumed that judges would be liable under 1983,' Pulliam, made an explicit holding of the "dicta"

from the <u>Supreme Court of Virginia v. Consumers Union</u>, 446 U.S. 719, 735 (1980) [W]e have never held that judicial immunity absolutely insulates judges from declaratory or injunctive relief with respect to their judicial acts.'] *See*, *Pulliam*, 466 U.S. at 536.

12) RICO's four essential requirements identified

This pleading is also based upon violations of the RICO statute and the "continuing" pattern of racketeering activity by the "enterprise" for refusing to adhere to the appropriate standards required by law. Complainant will focus upon the repeated injuries he suffered and their relationship to defendants' RICO violations embodying RICO's four requirements see, Sidima, 473 U.S. 496; (1) conduct, (2) enterprise (3) through a pattern (4) racketeering; each allegation is itself a term of art and embodies its own requirements of particularity as required, see, Elliott v. Fourfas, 867 F.2d 877 (5th Cir 1989). 18 U.S.C.1961(5) by pattern definition: of at least two acts of "racketeering activity" committed within ten years of each other, whether or not related. In U.S. v. Phillips, 664 F.2d 971 (11th Cir.1981) the Court held that two predicated affairs unrelated to each other but related to the "enterprise" sufficed to establish RICO liability. In this Complaint, this Honorable Court will see dozens of on-going violations of 42 U.S.C.A. 1983 (1982) (interference with property rights of citizens) and RICO violations (damages still to be computed) and clear and blatant violation of 18 U.S.C. 1964 (c) of RICO 1962 prohibited by RICO.

13) Claim abuse of process against an attorney defined

A claim for abuse of process can be stated against an attorney [In this case the grand jury, prosecutor] who prepares or causes the abuse of process to be issued in bad faith and for the purpose of gaining a collateral advantage, *See*, *Kalika v. Stern*, 911 *F. Supp*. 594 (E.D.N.Y. 1995). Acting in concert at all times, the jurists named herein, and **named individuals** et.al., individually and in their official capacity for the State of Tenn. repeatedly, continuously, consistently, and intentionally set forth in pleadings, decisions,

and Orders dishonest and incoherent interpretations of law, fabricated findings unsupported by any record as will be shown below.

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14) Nexus is shown by "proffer that the facilities and services of the "enterprise" were regularly and repeatedly utilized to make possible the "racketeering activity

The United States Court of Appeals for the 11th Cir. This nexus is shown by "proffer that the facilities and services of the "enterprise" were regularly and repeatedly utilized to make possible the "racketeering activity." No need exists to go further than that! See, U.S. v. Carter, 721 F2d 1514, 1527 (11th Cir. Cert. denied sub. Nom., Morris v. U.S. 469 U.S. 819 (1984); See, e.g. Sun Saving and loan Assoc. v. Dierdorff, 825 F.2d 187, 195 (9th cir.1987); United States v. Scotto, 641 F.2d 47, 54 (2nd Cir. 1980); U.S. v. Carlock, 806 F.2d 535, 546 (5th Cir. 1986) cert. Denied 480 U.S. 949, (1987); U.S. v. Blackwood, 768 F.2d 131, 138, (7th Cir.) cert. denied, 474 U.S. 1020 (1985).

(Under RICO cash does not have to be received to be a player in the scheme. See Shared Network Technologies, Inc. v. Taylor, supra at 426, the 11th Circuit held the "enterprise" need not receive an economic benefit, U.S. supra, at 990-91).

15) Procedural due process rules are meant to protect

The Supreme Court of this United States in Mathges v. Eldridge, 424 U.S. 319 344, has held:"The rules "minimize substantively unfair treatment or mistake, deprivation by enabling a person to contest the basis upon which a state proposes to deprive them of protected interest."

Cary v. Piphus, 435 U.S. 259: "Procedural due process rules are meant to protect persons not, from deprivation, but to contest from the mistake or justified deprivation of life, liberty or property."

16) Tennessee Constitution 1 § 9. Re: Rights of accused

That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the County in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

17) Tennessee Constitution 1 § 7. Re; Searches and seizures; warrants

That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

18) Tennessee Constitution 1 § 25.Re: Martial law

That no citizen of this State, except such as are employed in the army of the United States, or militia in actual service, shall be subjected to punishment under the martial or military law. That martial law, in the sense of the unrestricted power of military officers, or others, to dispose of the persons, liberties or property of the citizen, is inconsistent with the principles of free government, and is not confided to any department of the government of this State.

19) Tennessee Constitution 1 § 17. Remedies in courts, suits against state

That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the Legislature may by law direct.

20) Tennessee Constitution 1 § 22. Re Perpetuities and monopolies

That perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed.

21) When an indictment failed to state an offense and a crime has not been charged, the judgment must be vacated so says the Supreme Court

The right to be notified of a law allegedly violated and the opportunity to defend against the charge is of no less constitutional moment than the right to counsel in the Zerbst case. Since the indictment failed to state an offense and a crime has not been charged, the judgment must be vacated and set aside. US v Osiemi, 980 F2d 344 (1993). A challenge to the jurisdiction of the court is not waived by failure to raise the issue in trial court or on direct appeal. Kaufman v US, 394 US 217, 222.

22) A Bill of Particulars cannot save an invalid indictment

An indictment is an emissive of the grand jury; it cannot have substantive issues altered by the prosecuting attorney. Rabe v Washington, 405 US 313 (1972). Nor can a bill of particulars save an invalid indictment. Russell v United States, 369 US 749, 770. A bill of particulars relates only to issues of fact—it is not relevant to issues of law. Nor does the lack of an appeal prevent a challenge to a defective indictment. FRCrP 12 (b)(2).

23) The court has a responsibility in a Habeas Corpus action to review the record and, if the record shows a violation of a constitutional mandate, declare the trial was absolutely void.

Habeas Corpus will lie where no offense has been committed. Strauss v US, 516 F2d 980; Martency v US, 216 F2d 760; Robinson v US, 313 F2d 817; Roberts v US, 331 F2d 502; Martyn v US, 176 F2d 609. An indictment that does not charge an offense can be discharged by habeas corpus. Roberts v Hunter, 140 F2d 38; Brock v Hudspeth, 111 F2d 447; White v Levine, 40 F2d 502. Lack of a valid indictment is cause for release by habeas corpus. Ex parte Bain, 121 US 1; Ex parte Wilson, 114 US 417. The court has a responsibility in a habeas corpus action to review the record and, if the record shows a violation of a constitutional mandate, declare the trial was absolutely void. Moore v Dempsey, 261 US 86; Patton v US, 281 US 276.

24) No court has a right to imprison a citizen (or to remove civil rights) who has violated no law

No court has a right to imprison a citizen (or to remove civil rights) who has violated no law. Such restraint, even if exercised by a court under the guise and form of law, is as subversive of the right of the citizen as if it were exercised by a person not clothed with authority. Ex Parte Siebold, 100 US 371; 39 AmJur2d Habeas Corpus §28. Courts have held the one year limitation for relief can be equitably tolled in extraordinary circumstances. US v Kelly, 235 F3d 1238 (out of a concern for fairness); US v Patterson, 211 F3d 927 (for actively misleading the defendant); Dunlap v US, 250 F3d 1001. A statute of limitations on a question of jurisdiction would have the effect of making legal what was an illegal procedure, in addition to running counter to Supreme Court holdings.

25) Jurisdictional questions are never waived

It is additionally noted that FRCrP 12(b)(2) authorizes "defenses that (the) indictment or information fail to show jurisdiction or to charge an offense shall be noticed by the court at any time." Jurisdictional questions are never waived; they can be made at any time. Waley v Johnston, 316 US 101 (1942); Thor v US, 554 F2d 759.

26) Without jurisdiction, all orders are void (not merely voidable) and fines, penalties, restitution, etc., are refundable.

A guilty plea can be challenged at any time if the court did not have jurisdiction. Machibroda v US, 368 US 487. Jurisdiction is acquired by statutory authorization and valid process but not by a plea. A plea of guilty when the court does not have jurisdiction does not vest jurisdiction in the court nor does it bar a challenge to jurisdiction. Without jurisdiction, all orders are void (not merely voidable) and fines, penalties, restitution, etc., are refundable.

27) " If the requirements of the (Bill of Rights) are not complied with, the court no longer has jurisdiction to proceed.

If this requirement of the (Bill of Rights) is not complied with, the court no longer has jurisdiction to proceed. The judgment of conviction pronounced by a court without jurisdiction is void, and one imprisoned there under may obtain release by habeas corpus." Johnson v Zerbst, 304 US 458, 468 (1938). Since the indictment failed to state an offense and a crime has not been charged, the judgment must be vacated and set aside. US v Osiemi, 980 F2d 344 (1993). A challenge to the jurisdiction of the court is not waived by failure to raise the issue in trial court or on direct appeal. id 345. Nor is the challenge waived by lack of an appeal. FRCrP 12(b)(2).

28) In an admiralty in rem proceedings suit conducted in the names of the True real parties IN INTEREST." In this case THE BANK AND THE FUND not the Legal fiction STATE OF TENNESSE

A cardinal principle, in which the practice of admiralty courts differs from that of courts of common law, permits the parties to a suit to prosecute and defend upon their rights as such rights exist at the institution of the action; the assignment of a right of action being deemed to vest in the assignee all the privileges and remedies possessed by the assignor. According to the rule of the common law, the injured party alone is permitted to sue for a trespass, the damages being deemed not legally assignable; and if there be an equitable claimant, he may sue only in the name of the injured party. In admiralty, however, the common practice is to have the suit conducted in the names of the real parties IN INTEREST." 1 R.C.L. 33, pg. 424 (1914); "...and when a statute of the United States so provides, an action for the use or benefit of another shall be brought in the name of the United States." F.R.Civ.P. 17. The district courts are prohibited from granting venue where the United States has less than "one-half of its capital stock..." of the Respondents/Libelants Principal, the Fund and Bank. 28 USC 1349

29) When the STATE OF TENNESSE became a US Inc franchise quasi public service corporation they laid down any right to use the Eleventh Amendment as immunity to shield their criminal and wrongful practices

The government by becoming a corporator (see 22 USCA 286e) lays down it s sovereignty and takes on that of a private citizen 28 USC 3002 (15) (A-C). It can exercise no power which is not derived from the corporate charter. (see: The Bank of the United States vs. Platners Bank of Georgia, 6 L.Ed. (9Wheat) 244; U.S. vs BURR, 309 U.S. 242). The REAL PARTY IN INTEREST is not the de jure "United States of America" or "State", but "The Bank" and "The Fund". (22 USCA 286, et seq.).

30) A right of action cannot rise out of fraud if a court commits a fraud
The acts committed under fraud, force and seizures are many times done under "Letters
of Marque and Reprisal", i.e., "recapture". (see 31 USCA 5323) Such principles as
"Fraud and justice never dwell together", Wingate's Maxims 680, and "A right of action
cannot rise out of fraud." Broom's Maxims 297, 729.

31) Court proceedings must be within constitutional provisions that have been forcefully established by the Supreme Court. A writ of prohibition shall lie as a matter of right in all cases of usurpation.

A writ of prohibition shall lie as a matter of right in all cases of usurpation and abuse of

power, when the inferior court has not jurisdiction of the subject matter in controversy, or, having such jurisdiction exceeds its legitimate powers." Syl. pt. 1, State ex rel. UMWA Intern. Union v. Maynard, 176 W.Va. 131, 342 S.E.2d 96 (1985). Existence of clear error as a matter of law should be given substantial weight." Syl. pt. 4, State ex rel. Hoover v. Berger, 199 W. Va. 12, 483 S.E.2d 12 (1996). The Fifth Amendment mandates that all judicial proceedings must proceed by due process. Since all judges take an oath of office to uphold the Constitution, and the Supreme Court has additionally held that government employees who violate any law in the performance of duties do not represent the government, should we conclude that adjudication that is not within constitutional requirements nullifies any claim to jurisdiction? Sure it does. This is the only guarantee that a court of admiralty, a star chamber proceeding, a kangaroo court, or an arbitrary proceeding by whatever name does not occur. That court proceedings must

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39) Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974):

The U.S. Supreme Court stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States."

Note: By law, a judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). When a judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject-matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect.

- 40) "NORTON V SHELBY COUNTY"; 118 U.S. 425, An unconstitutional act (Ruling) is not law; It confers no right, imposes no duty, it affords no protection, it creates no office, it is in legal contemplation as though it had never been passed or ORDERED, AND ON THE RECORD.
- 41) "All laws repugnant to the constitution are null and void", <u>Marbury v. Madison</u> 5 U.S. 137.
- 41) Shuttlesworth v. City of Birmingham. 373 U.S. 262, "If a liberty OR RIGHT is converted to a Privilege you can engage in the right with impunity."
- 42) Government of the Virgin Islands v. Gereau, 523 F.2d 140 (1975) cannot assume facts not in evidence, even if judge believes facts to be accurate. Trinsey v Pagliaro, 229 F. 2nd Supp 647: Statements of attorney in brief or argument do not rise to the level of FACT before the court or are sufficient for Summary Judgment.
- 43) In accord with the U.S. Constitution; the supreme law of the Land, (Marbury v Madison, 5 U.S. 137); "The Constitution is the supreme law of the Land.

 Officers of the Court have no immunity from liability when violating Constitutional

A Judge who defies a decision interpreting the Constitution knows precisely what he is doing; SCREWS v. U.S., 325 U.S. 91 (1945), Page 325 U.S. 105; "But willful violators of constitutional requirements, which have been defined, certainly are in no position to say that they had no adequate advance notice that they would be visited with punishment. When they act willfully in the sense in which we use the word, they act in open defiance or in reckless disregard of a constitutional requirement".

44) Constitutional Rights:

"There can be no sanction or penalty imposed upon one because of his exercise of constitutional rights." Sherar v. Cullen, 481 F. 2d 946; "The claim and exercise of a Constitutional Right cannot be converted into a crime." Miller v. U.S., 230 F, 2d 286, 489: "a denial of them would be a denial of due process of law". Simmons v. United States, 390 U.S. 377; "The mere chilling of a Constitutional right by a penalty on its exercise is patently unconstitutional." Shapiro v. Thompson, 394 U.S. 618. "A law that "infringes upon a fundamental right explicitly or implicitly secured by the Constitution is presumptively unconstitutional." Mobile v. Bolden, 446 US 55, 76; Harris v. McRae, 448 US 297, 312; Constitutional 'rights' would be of little value if they could be indirectly denied." Gomillion v. Lightfoot, 364 U.S. 155 (1966), cited also in Smith v. Allwright, 321 U.S. 649.644

45) Void Judgment:

A *void judgment* has no efficacy and may be treated as a nullity. A *void judgment* is vulnerable to a direct or collateral attack regardless of the lapse of time. A *void judgment* is a simulated judgment devoid of any potency because of jurisdictional defects only, in the court rendering it. Defect of jurisdiction may relate to a party or parties, the subject matter, the cause of action, the question to be determined, or the relief to be granted. A judgment entered where such defect exists has neither life nor incipience, and

a court is impuissant to invest it with even a fleeting spark of vitality, but can only determine it to be what it is -- a nothing, a nullity. Being naught, it may be attacked directly or collaterally at any time. <u>Stubbs v. McGillis</u>, <u>44 Colo. 138</u>, <u>96 Colo. 1005</u>, <u>130</u> Am.S.R. 116, 18 L.R.A. N.S. 405.

46) Re: unlawful arrest

Notice what the high court says about this matter: "Citizens may resist an unlawful arrest to the point of taking an arresting officer's life if necessary." Plummer v. State, 136 Ind. 306. This premise was upheld by the Supreme Court of the United States in the case: John Bad Elk v. U.S., 177 U.S. 529.

47) The Administrative Court and its Officers are by lawful definition Federal employees

The Administrative Court and its Officers are by lawful definition Federal employees, under, among other factors, the Clearfield Doctrine, and are private collection agencies for the UNITED STATES TREASURY DEPARTMENT also known as the International Monetary Fund or the "FUND". This is what the People are led to believe by your own Codes, Rules, Regulations, etc., and settled law. If I am wrong correct me.

They require a federal Social Security Human resources tracking locator number for and are paid in federal reserve credits which they redeem in Fiat unbacked military commercial green back debt based currency Federal reserve private central bank US Inc note dollars, The Federal reserve bank is also known as the agent of the World Bank group which includes the BIS is also known as the "BANK".

48) Regarding damages for unlawful arrest and confinement

See 741 F2d 336 Trezevant v City of Tampa

49) Unconstitutionally deprived of right to liberty 42U.S. C.A § 1983

As an Official policy and custom of a municipality in the normal course of business in

accordance of what they consider to be governmental policy which was not lawfully sufficient to support a finding for incarceration and as a result of official policy both the municipality and county board of criminal justice liable for unconstitutional deprivation of Right to liberty 42U.S. C.A § 1983 Jury set the award rate at \$25,000 for each 23minutes of incarceration for unconstitutional deprivation of Right to liberty 42U.S. C.A § 1983 that prisoner was entitled to compensation for mental anguish he suffered from the entire episode

- 50) An Unrebutted Affidavit stands as Truth in commerce
- 2 Peter 1:25, Hebrews 6: 13-15
- 51) Non Rebutted Affidavits are
- "Prima Facie Evidence in the Case, "United States vs. Kis, 658 F.2d, 526, 536-337 (7th Cir. 1981);
- 52)"Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . . We cannot condone this shocking behavior... This sort of deception will not be tolerated and if this is routine it should be corrected immediately." U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.

53) ESTOPPEL BY ACQUIESCENCE

In the event Libelee respondents admit the habeas statements and claims by TACIT PROCURATION (remaining silent), all issues are deemed to be settled RES JUDICATA, STARE DECISIS and COLLATERAL ESTOPPEL. Libelee respondents may not argue, controvert, or otherwise protest the finality of the administrative findings in any subsequent process, whether administrative or judicial.

54) Any action(s) by respondent Libelee(s) in any court or other forum undertaken

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"Fraud in its elementary common law sense of deceit includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, and if he deliberately conceals material information from them he is guilty of fraud." McNally v. U.S., 483 U.S. 350, 371-372, Quoting U.S. v Holzer, 816 F.2d. 304, 307.

- 57) Fraud and deceit may arise from silence where there is a duty to speak the truth, as well as from speaking an untruth. Morrison v. Coddington, 662 P. 2d. 155, 135 Ariz. 480 (1983).
- 58) The jury's role "as a check on official power" is in fact "its intended function." Batson v. Kentucky, 476 U.S. 79, 86-87 n.8 (1986).
- 59) Allodial "Free; not holden of any lord or superior; owned without obligation of vassalage or fealty; the opposite of feudal."

61) Emergency Banking Act, March 9, 1933, 48 Stat. 1, Public Law 89-719
73RD UNITED STATES CONGRESS 1ST SESSION also know as the Emergency
Banking Relief Act enacted march 9, 1933 Also Known as the Great Gold Heist Scam

An Act

taxation," is feudal in nature." Wikipedia.

- 62) To provide relief in the existing national emergency in banking, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Congress hereby declares that a serious emergency exists and that it is imperatively necessary speedily to put into effect remedies of uniform national application Title 1 sect 1
- 63) The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the Act of October 6, 1917, as amended, are hereby approved and confirmed.

Sec 2

64) Subdivision (b) of section 5 of the Act of October 6, 1917 (40 Stat. L. 411), as amended, is hereby amended to read as follows: "(b) During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person

engaged in any transaction referred to in this subdivision to furnish under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term 'person' means an individual, partnership, association, or corporation.''

SEC₃

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65) Section 11 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection: "(n) Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations and corporations. Upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury shall pay therefore an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States. The Secretary of the Treasury shall pay all costs of the transportation of such gold bullion, gold certificates, coin, or currency, including the cost of insurance, protection, and such other incidental costs as may be reasonably necessary. Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury made under this subsection shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect of which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise."

Citizens thereof, and foreign States, Citizens or Subjects.

- 72) Note 10: This above Clause has been affected by Amendment XI [Article XI] The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State
- 73) The 11th Amendment (or Article) was an Act of Congress to amend Article III and was ratified by the States into Law. The Respondents can not have this both ways. The Respondents can not bring claims under Article III and then deny the People a defense under the 11th Amendment has they have done. The People have been told by judges they can not use Statutes or the Constitution in court as their defense. The respondents KNOW that the courts in this country are only administrative, and not judicial. The respondents have knowingly defrauded the People/Petitioners in their claim on the liability
- 74) Rule 5.1(a), Federal Rules of Criminal Procedure, pertaining to preliminary examinations, to wit: The defendant may cross-examine adverse witnesses and may introduce evidence. [Rule 5.1(a), Federal Rules of Criminal Procedure] This Court will also please take formal Notice that the Federal Rules of Evidence, which are otherwise restrictive, do not apply to preliminary hearings or to grand jury proceedings. See Rule 1101(d)(2) and (3), Federal Rules of Evidence. Accordingly, the applicable elements of the common law and constitutionally guaranteed Rights are both preserved in these two forums. According to the U.S. Supreme Court's decision in Blair v. United States, 250 U.S. 273, 282 (1919), the grand jury retains common law powers and authority vested by common law of English-American lineage prior to the ratification of the U.S. Constitution. The reason for the preservation of the grand jury's traditional authority, with the exclusion provision at rule 1101(d)(2), is found at 28 U.S.C. 2072, which conveys authority for the U.S. Supreme Court to promulgate rules for statutory courts of the United States, to wit:
 - (b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have

taken effect.

 75) Why Motion to Dismiss for Illegal Grand Jury Proceedings is applicable

Therefore, convening a grand jury in secret, without affording Defendant an opportunity to challenge the jury selection process or the qualifications of the individual jurors and to exercise Fourth and Sixth Amendment Rights to have access to the substance of complaints, to interview adverse witnesses and either stand in Defendant's own stead or be represented by counsel, defaults the alleged indictment into an action ultra vires ab initio (without authority from the beginning). The entire grand jury array must be defaulted, therefore, and the indictment dismissed, pursuant to 28 U.S.C. 1867(d), to wit:

- (d) Upon motion filed under subsection (a), (b), or (c) of this section, containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with provisions of this title If the court determines that there has been a substantial failure to comply with the provisions of this title in selecting the grand jury, the court shall stay the proceedings pending the selection of a grand jury in conformity with this title or dismiss the indictment, whichever is applicable
- 76): what the high court says about this matter: re resisting a false and unlawful arrest "Citizens may resist an unlawful arrest to the point of taking an arresting officer's life if necessary." Plummer v. State, 136 Ind. 306. This premise was upheld by the Supreme Court of the United States in the case: John Bad Elk v. U.S., 177 U.S. 529.
- 77) re: unlawful arrest see State v Mobley 240 N.C 63, SE .2d 100

Each person has the right to resist an unlawful arrest in such case, The person attempting the arrest stands in the position of a wrongdoer, and may be resisted By use of force as in self defense

78) An unlawful arrest is defined in Housh v People 77,111: 491 An arrest made with a defective warrant is one issued without affidavit, or one that fails to allege a crime is within jurisdiction and one who is being arrested may resist and break away

79) An illegal arrest is defined in State v Robinson, 145 Me 77,72 at 1260 an assault and battery. The Person so attempted to be restrained of his Liberty has the same right to use force in defending himself as he would in repelling any other assault and battery

- 80) Where the instant case is concerned, the alleged indictment must be dismissed because the entire selection and seating process was conducted under the exclusive control of the Attorney General, without Walter Fitzpatrick III having had the opportunity to participate in the selection and qualification process, as prescribed by Rule 6(b)(1) of the Federal Rules of Criminal Procedure. This, of necessity, defaults all members of the grand jury responsible for the alleged indictment, because an a posteriori position does not afford the opportunity to correct an error which abridges the provisions of Rule 6(b)(1) of the Federal Rules of Criminal Procedure.

 Dismiss for Illegal Grand Jury Proceedings: REMEDY REQUESTED. Dismiss the indictment with prejudice, said dismissal is mandated by the operation of law.
- 82) the 'STATE' <u>cannot and will not</u> address this issue of this claim regarding a basic principle that all men are created equal. Equality of law is Paramount, and justice by or through use of a(n) <u>Cestui Que (Vie) Trust</u> or this Implied Trust is illegal and immoral and unjust if due process/equality are not preserved. The creation and use of this legal fiction in the courts of the state is a violation of my Law
- 83) Canon 1284: The original purpose and function of a Cestui Que (Vie) Trust was to form a temporary Estate for the benefit of another because some event, state of affairs or condition prevented them from claiming their status as living, competent and present before a competent authority. Therefore, any claims, history, statutes or arguments that deviate in terms of the origin and function of a Cestui Que (Vie) Trust as pronounced by these canons is false and automatically null and void.

- 84) Canon 1285: A Beneficiary under Estate may be either a Beneficiary or a Cestui Que (Vie) Trust. When a Beneficiary loses direct benefit of any Property of the higher Estate placed in Cestui Que (Vie) Trust on their behalf, they do not "own" the Cestui Que (Vie) Trust and are only the beneficiary of what the Trustees of the Cestui Que (Vie) Trust choose to provide them
- 85) Canon 1292: A Birth Certificate of the Body Corporate being the Estate of a Cestui Que (Vie) Trust is invalid if it does not make plain the status of the relevant Beneficiary as "dead" until their return including how the certificate may be redeemed and the Trust and Estate dissolved upon their return.
- 86) Canon 1293: When a child is borne under inferior Roman law, the Executors or Administrators of the higher Estate convey the beneficial entitlements of the Beneficiary into the Cestui Que (Vie) Trust in the form of a certificate of share of the higher Estate in order to create the Trust.
- 87) Canon 1294: When a child is borne under inferior Roman law, the Executors or Administrators of the higher Estate claim the baby as chattel to the Estate. The slave baby contract is then created by honoring the ancient tradition of either having the ink impression of the feet of the baby onto the live birth record, or a drop of its blood as well as tricking the parents to signing the baby away through the deceitful legal meanings on the live birth record. This live birth record as a promissory note is converted into a slave bond sold to the private reserve bank of the estate and then conveyed into a separate Cestui Que (Vie) Trust per child owned by the bank. Upon the promissory note reaching maturity and the bank being unable to "seize" the slave child, a maritime lien is lawfully issued to "salvage" the lost property and itself monetized as currency issued in series against the Cestui Que (Vie) Trust.

88) Canon 1303: Any Administrator or Executor that refuses to immediately dissolve a Cestui Que (Vie) Trust, upon a Person establishing their status and competency, is guilty of fraud and fundamental breach of their fiduciary duties requiring their immediate removal and punishment.

89) By virtue of Emergency Banking Act, March 9, 1933, 48 Stat. 1, Public Law 89-719; declared by President Roosevelt, the American people were forced to turn in their Gold [the Protector of Property] and were given in exchange paper [the worthless ghost of money!] But something much more maniacal was also being done to them. The Emergency Banking Act of March 9, 1933 (48 Stat 1) "... made possible the issue of the necessary amount of emergency currency in the form of Federal Reserve Bank Notes which could be based on any sound asset owned by the banks". [Roosevelt's papers] What does that mean, any sound asset? The next quote answers that question. [Patton] "The money will be worth 100 cents on the dollar because it is backed by the credit of the Nation. It will represent a mortgage on all the homes and other property of all the people of the Nation," [Congressional Record, March 9, 1933.] This effectively means that the Federal Government "Hypothecated" all of the present as well as future property of the American Citizens.

- 90) The term "Hypothecate" is a legal term which means to pledge property as security or collateral for a debt. Generally there is no physical transfer of the pledged property nor is the creditor given title to the property, though he has a right to sell the pledged property upon default. In other words the property [real estate] of all American Citizens has effectively been mortgaged by the government, but since we retain the property and title does not change most people are completely unaware that they have forever been turned into Renters and stripped of their rights as Property Owners.
- 91) To completely understand the significance of this statement we need to understand another legal term "Allodial Ownership": It describes a situation where real property [land, buildings & fixtures] real estate is Owned Free & Clear of any encumbrances

including <u>leans</u>, <u>mortgages</u>, <u>and tax obligations</u>. Allodial title is <u>inalienable</u>, in <u>that it</u> can not be taken by operation of law for any reason what so ever.

92) Prior to 1913 and the infliction of the Federal Reserve on the people of the U.S. most Americans held Allodial ownership and had INALIENABLE RIGHTS which could not be taken by operation of law <u>for any reason what so ever</u>. **NOTE:** there is no property tax on Allodial property. So if we had Allodial, inalienable rights, how did the government impose a mortgage and property taxes making us renters not owners of property?

It is another case of might is right. By mortgaging our property and making ownership subject to property taxes the government has forcibly taken ownership of our property without compensation and that is against the 14th Amendment which states:"...nor shall private property be taken for public use without just compensation."

93) TCA 22-2-314 see US Grand Jury institute inc Investigative report on Grand Jury conduct, Monroe County, Tennessee See attachment "c" http://usgrandjury.org/reports/MonroeCountyTN 021110.pdf

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3	Ex Rel	10th Judicial DISTRICT
4 5	Relator, Next friend) (A) (B) (A) (C) (C)	CIRCUIT COURT MONROE COUNTY Tonnessee
6 7	Address 897 WILMAR CIR) Phone# EGINSVIUS, GA 20512)	Tennessee Exhibit Attachment "C"
8	The Unlawfully imprisoned	US Grand Jury institute inc
9	Walter Fitzpatrick III Petitioner	Investigative report on Grand Jury
10	v.)	conduct , Monroe County ,Tennessee
11	MONROE COUNTY SHERIFF	regarding the matter of Inc Case No. 11-018 and
13	Respondent Bill Bivens et al and STATE OF TENNESSE et al, Real Party in	Inc Case No. 10-213
14 15	interest)	Lawful notice to those doing their unlawful acts against
16)	Walter Fitzpatrick III
17		
18		
19	Exhibit Att2	achment "C"
20	US Grand Jury instit	rute inc. Investigative
21	US Grand Jury institute inc. Investigative report on Grand Jury conduct , Monroe County ,Tennessee	
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23	regarding the matter of Inc Case No. 11-018 and	
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U.S. GRAND JURY INSTITUTE, INC.

Investigative Report on Grand Jury Conduct Monroe County, Tennessee



February 11, 2010

CONTENTS

Purpose, Scope and Disposition
Background
Discussion
Findings
Recommendations
Appendices

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

The Fifth Amendment to the United States Constitution

PURPOSE, SCOPE & DISPOSITION

PURPOSE

The purpose of this report is to document and report on the findings of an independent investigation conducted by U.S. Grand Jury Institute, Inc., hereafter referred to as USGJI, Inc., into allegations of misconduct by the Monroe County, Tennessee Grand Jury, involving a case brought by retired United States Naval Officer Lieutenant Commander Walter Francis Fitzpatrick III.

SCOPE

It is the policy of USGJI, Inc. to follow the evidence and facts wherever they lead when it comes to matters of grand jury integrity. It is USGJI, Inc.'s unwavering belief that the citizens of each of these United States are entitled to a grand jury process that is not only completely above reproach and free of ethical improprieties, but that grand juries are established and managed within the spirit and intent of the law so that even the appearance of corruption and conflict of interest are avoided.

USGJI, Inc. focused this investigation on the events brought to light by Commander Fitzpatrick's contact with the Monroe County Grand Jury from August 2009 to the present. Specifically, USGJI, Inc. looked into obstruction, the selection process and composition of the Monroe County Grand Jury.

DISPOSITION

The results of this investigation will be provided to state and local officials and law enforcement authorities if it is determined that any of the facts and evidence found warrant further formal investigation, legal action or criminal prosecution. The results of this investigation will also be made available to the general public, individuals and organizations upon request.

BACKGROUND

Retired United States Navy Lieutenant Commander Walter Francis Fitzpatrick III is a Citizen of the State of Tennessee who has resided in Monroe County in the town of Sweetwater since October of 2007.

Commander Fitzpatrick has been pursuing justice via the Monroe County Grand Jury since at least August of 2009 to the present, and although USGJI, Inc. has no role in that case, this report is based upon anomalies found in the Monroe County Grand Jury while observing the manner in which the Monroe County Grand Jury performed, or failed to perform its sworn duty.

The oath for a Tennessee Grand Juror reads as follows:

"You as members of the grand jury do solemnly swear (or affirm) that you will diligently inquire, and true presentment make, of all offenses given you in charge, or otherwise brought to your knowledge, committed or triable within this county; that you will keep secret the state's counsel, the other jurors' and your own; that you will present no person from hatred, malice, or ill will, nor leave any unpresented through fear, favor, or affection, or for any reward, or the promise or hope thereof, but that you will present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you God."

USGJI, Inc. takes no direct position concerning Commander Fitzpatrick's case in this report. However, USGJI, Inc. is very concerned with events surrounding that case, as those events demonstrate potentially illegal, unethical and unconstitutional practices in the Monroe County Grand Jury system and processes.

Based on the anomalies, conflicting information and questionable practices released to the media surrounding Commander Fitzpatrick's case and the Monroe County Grand Jury, USGJI, Inc. commenced its own independent investigation on January 11, 2010 at the request of Commander Fitzpatrick.

DISCUSSION

USGJI, INC.'S INTERESTS IN THE MONROE COUNTY GRAND JURY

Specifically, USGJI, Inc. is interested in the following practices and procedures;

- The Constitutional Purpose and Intent of a Grand Jury
- The manner in which members of the Grand Jury are impaneled
- The unbiased and impartial nature of a Grand Jury
- The oath and obligations of a Grand Jury

INVESTIGATIVE TOOLS USED BY USGJI, INC.

USGJI, Inc. relied upon the testimony of individuals engaged with the Monroe County Grand Jury and/or county courts, specific open records requests for information related to the impaneling, practices and procedures of the Monroe County Grand Jury, and review of related Tennessee codes and rules of procedure pertaining to the Grand Jury.

OBSTRUCTION OF JUSTICE

Testimony from Commander Fitzpatrick includes charges of obstruction against the Monroe County Grand Jury, based upon Commander Fitzpatrick's repeated efforts to present evidence of criminal activities to the Monroe County Grand Jury, and the repeated efforts by Jury and court members to prevent said evidence from being presented.

Commander Fitzpatrick's efforts to present said evidence to the Grand Jury were based upon the constitutional purpose of a Grand Jury, within the guidelines stated in Tennessee law which includes the following purpose of a Grand Jury:

"A member of the grand jury, the prosecutor, <u>or a private citizen</u> may suggest that the grand jury investigate a person, place, or business for possible criminal activity. If the grand jury chooses to launch this probe, it may use its power to issue subpoenas to compel people to testify and bring records and other things with them to the grand jury. If the grand jury finds that crimes are being

committed, it can issue a presentment, which is a formal allegation that a named person or business has committed a crime. The presentment serves exactly the same function as an indictment." Criminal Procedure: The Post-Investigative Process, Cases And Materials 11-12 (Neil P. Cohen & Donald J. Hall, 2nd ed., Lexis 2000).

Further, Rule 6 (f) of the Tennessee Rules of Criminal Procedure states:

"Individual Grand Juror's Duty to Inform. If a member of the grand jury knows or has reason to believe that an indictable public offense has been committed in the county, he or she shall inform the other jurors, who shall investigate it."

Yet all efforts by Commander Fitzpatrick to present evidence of crimes were rejected at the door, without review, by the Monroe County Grand Jury, even after members of the Grand Jury were well aware of Commander Fitzpatrick's repeated efforts to present such evidence.

IMPANELING A GRAND JURY

Rule 6, (a) (1) – of the Tennessee Rules of Criminal Procedure states the following, as it relates to the legitimate procedure for impaneling a Grand Jury:

"Formation at a Regular Term. On the first day of each term of court at which a grand jury is required to be impaneled, the judge of the court authorized by law to charge the grand jury and to receive its report shall direct the names of all the qualified jurors in attendance for the criminal courts of the county to be written on separate slips of paper and placed in a box or other suitable receptacle and drawn out by the judge in open court. The foreperson and the twelve qualified jurors whose names are first drawn constitute the grand jury for the term and shall attend the court until dismissed by the judge or until the next term."

Rule 6 (g) (2) states that a Grand Jury Foremen must meet all of the normal qualifications applied to any other juror, which includes the need for the Foreman to be selected from a random pool of potential jurors, within the guidelines and limitation of the process allowed.

Rule 6 (g) (3) limits the term of a Grand Jury Foreman to a maximum of two (2) years.

Monroe County Grand Jury Foreman Gary Pettway has served as Grand Jury Foreman for twenty-seven (27) years, further indicating that he was not selected by any random process from a new pool of potential jurors at any time in the last twenty-six (26) years.

USGJI, INC. OPEN RECORDS REQUEST FOR INFORMATION

On January 12, 2010 USGJI, Inc. sent an open records request for information to the Monroe County Circuit Court Clerk, Ms. Martha Cook. The following questions were asked:

- 1. What is the process of selecting the grand jury members in Monroe County and who is involved in that process?
- 2. How long has Mr. Gary Pettway been involved with the Monroe County Grand Jury both as a jury foreman?
- 3. What stipends past and present are being paid to Mr. Pettway?

USGJI, Inc. further requests the release of ALL information in regards to the process of selecting the grand jury in Monroe County for the past 20 years to include the names of all judges, prosecutors and any personnel that have access to information about the grand jury in Monroe County.

MONROE COUNTY CIRCUIT COURT CLERK RESPONSE

USGJI, Inc. received the following response from the Ms. Cook in a letter dated January 21, 2010 which stated:

"I have attached and also attempted to answer your request for information.

- Process selection of Grand Jury/ I have attached copies of TCA 22-2-101 which describes the procedure. As to who is involved, I serve as jury coordinator and also a deputy clerk in my office assist me.
 - Two Grand Juries are impaneled in December and serve for a period of 1 year. They rotate months for appearing. Example: Panel 1 report in Jan. Panel 2 Feb. Panel 1 March, etc
- 2. Mr. Pettiway has served as Grand Jury Foreman for appx 27 years.
- 3. Mr. Pettiway receives \$15.00 per day for his service.

I think I have answered all the questions you requested."

SEE EXHIBITS A & B.

Also included in Ms. Cook's response of January 21, 2010 was a second letter which seemed to be added as an afterthought. It stated the following:

"On Jan. 14, 2010, this Office received your open records request to inspect/receive copies of ALL INFORMATION in regards to the process of selecting the grand jury in Monroe County for the past 20 years to include the names of all judges, prosecutors and any personnel that have access to information about the grand jury in Monroe County. After reviewing the request, the Office is unable to provide you with either all or part of the requested records.

The basis for this denial is No such records exists.

The law which this denial is based on is TCA 10-7-503 (2) (B) (5) If you have any other questions please contact me."

SEE EXHIBIT C.

Note: A copy of TCA 10-7-503 (2) (B) (5) was not included with Ms. Cook's second letter. USGJI, Inc. has since been unable to confirm that any such law exists.

SEE EXHIBIT D.

USGJI, INC. OPEN RECORDS REQUEST FOR ADDITIONAL INFORMATION

On January 28, 2010 USGJI, Inc. sent an open records request for additional information to Monroe County Circuit Court Clerk, Ms. Martha Cook. The following two questions were asked:

- 1. By what or whose authority has Mr. Pettway served as Foreman of the Monroe County Grand Jury for the past 27 years?
- 2. Are the Jurors and Foreman for the Monroe County Grand Jury selected manually or by the automated means as discussed in TCA 22-2-301?

MONROE COUNTY CLERK RESPONSE

USGJI, Inc. received the following response to the request for additional information from Ms. Cook in a letter dated February 1, 2010 which stated:

"In your request for additional information received by this office on 2-02-10, the answers to your questions are as follows:

- 1. The foreperson of the Grand Jury is appointed by the judge of Criminal Court.
- 2. Our jury selection is totally automated."

SEE EXHIBIT F.

FINDINGS

After a thorough review of the applicable sections of the Tennessee Code and the Tennessee Rules of Criminal Procedure and comparing it to the answers provided by the Monroe County Circuit Court Clerk, USGJI, Inc. arrived at the following findings:

- It is the opinion of USGJI, Inc. that the Monroe County Grand Jury has been tainted and corrupted by the continuous service of Mr. Gary Pettway as Grand Jury Foreman for the past 27 years.
- It is the opinion of USGJI, Inc. that the random selection processes required by law and rules of procedure for impaneling a Grand Jury were not followed in Monroe County.
- It is the opinion of USGJI, Inc. that evidence of obstruction exists in the matter involving Commander Fitzpatrick's repeated and failed efforts to present evidence of criminal activities to a Grand Jury, obligated by oath to hear and act upon such evidence.
- It is the opinion of USGJI, Inc. that the purpose, intent and function of the Grand Jury in Monroe County Tennessee has been tainted to the degree as to cause great concern for the legitimacy of the Monroe County Grand Jury and its ability to carry out justice in an unbiased and impartial manner.

It is the opinion of USGJI, Inc. that sufficient evidence exists to believe that the following laws from the Tennessee Code have been violated:

TCA 22-1-101. Obligation to serve — Qualifications.

It is policy of this state that all qualified citizens have an obligation to serve on petit juries or grand juries when summoned by the courts of this state, unless excused. Every person eighteen (18) years of age, being a citizen of the United States, and a resident of this state, and of the county in which the person may be summoned for jury service for a period of twelve (12) months next preceding the date of the summons, is legally qualified to act as a grand or petit juror, if not otherwise incompetent under the express provisions of this title.

TCA 22-2-310. Impaneling jurors - additional jurors.

(a) The members of the grand and petit juries shall be made up as provided by law from the jury pool. In the event the original jury pool does not include a sufficient number of jurors, courts shall follow the procedures in subsection (b) for securing additional jurors. These additional names shall supplement, not replace, the original jury pool. These procedures shall be repeated, as necessary, until the grand and petit juries are completed.

TCA 22-2-314. Limitation on jury service as follows:

A juror who has completed a jury service term shall not be summoned to serve another jury service term in any court of this state for a period of twenty-four (24) months following the last day of such service; however, the county legislative body of any county, may, by majority vote, extend the twenty-four-month period.

Further, it is the opinion of USGJI, Inc. that sufficient evidence exists to believe that the following Tennessee Rules of Criminal Procedure have been violated:

Rule 6 (f) of the Tennessee Rules of Criminal Procedure:

"Individual Grand Juror's Duty to Inform. If a member of the grand jury knows or has reason to believe that an indictable public offense has been committed in the county, he or she shall inform the other jurors, who shall investigate it."

Rule 6 (a) (1)

"Formation at a Regular Term. On the first day of each term of court at which a grand jury is required to be impaneled, the judge of the court authorized by law to charge the grand jury and to receive its report shall direct the names of all the qualified jurors in attendance for the criminal courts of the county to be written on separate slips of paper and placed in a box or other suitable receptacle and drawn out by the judge in open court. The foreperson and the twelve qualified jurors whose names are first drawn constitute the grand jury for the term and shall attend the court until dismissed by the judge or until the next term."

Rule 6 (g) (2)

"Qualifications of Foreperson. The foreperson shall possess all the qualifications of a juror."

Rule 6 (g) (3)

"The foreperson shall hold office and exercise powers for a term of two (2) years from appointment. In the discretion of the presiding judge, the foreperson may be removed, relieved, or excused from office for good cause at any time."

RECOMMENDATIONS

USGJI, Inc. recommends that all Grand Jury proceedings in Monroe County, Tennessee be suspended until a legally convened investigative Grand Jury has conducted a thorough investigation of this matter and the appropriate corrective action(s) have been implemented.

Signed this 11th Day of February, 2010.

Mack Ellis, President

U.S. Grand Jury Institute, Inc.

Donald A. McDougall, Vice Président

U.S. Grand Jury Institute, Inc.

U.S. Grand Jury Institute, Inc. is a 501 (C) (3) nonprofit corporation duly licensed and authorized to operate under the Laws of the State of Arkansas.

APPENDICES

A - F





Donald A. McDougall

January 12, 2010

Martha Cook Monroe County Circuit Court Clerk 105 College Street, Suite 103 Madisonville, TN 37354

Dear Ms. Cook:

RE: Request for Information

I am a citizen of the State of Tennessee. I hereby request the following specific information be provided regarding the Monroe County Grand Jury:

- 1) What is the process of selecting the grand jury members in Monroe County and who is involved in that process?
- 2) How long has Mr. Gary Pettway been involved with the Monroe County Grand Jury both as a juror and as jury foreman?
- 3) What stipends past and present are being paid to Mr. Pettway?

I further request the release of ALL information in regards to the process of selecting the grand jury in Monroe County for the past 20 years to include the names of all judges, prosecutors and any personnel that have access to information about the grand jury in Monroe County.

I request this information be sent to the above address as soon as possible.

Sincerely,

Donald A. McDougall

Vice President, U.S. Grand Jury

Martha M. Cook

CLERK OF THE CRIMINAL, CIRCUIT AND SESSIONS, JUVENILE COURTS

105 College Street Suite 3 Monroe County Courthouse Madisonville, Tennessee 37354 Circuit (423) 442-2396 Criminal (423) 442-5936 Sessions (423) 442-9537 Juvenile (423) 442-5631 Fax (423) 442-9538

January 21, 2010

Mr. Donald A McDougall

Re: Request for Information

Dear Sir:

Concerning your letter of January 14, 2010, I have attached and also attempted to answer your request for information.

 Process selection of Grand Jury/ I have attached copies of TCA 22-2-101 which describes the procedure. As to who is involved. I serve as jury coordinator and also a deputy clerk in my office assist me.

Two Grand Juries are impaneled in December and serve for a period of 1 year. They rotate months for appearing. Example: Panel 1 report in Jan. Panel 2 Feb. Panel 1 March, etc

- 2. Mr. Pettiway has served as Grand Jury Foreman for appx 27 years.
- 3. Mr. Pettiway receives \$15.00 per day for his service.

I think I have answered all the questions you requested.

Sincerely,

Martha M Cook



CLERK OF THE CRIMINAL, CIRCUIT AND SESSIONS, JUVENILE COURTS

105 College Street Suite 3 Monroe County Courthouse Madisonville, Tennessee 37354

January 21, 2010

Circuit (423) 442-2396 Criminal (423) 442-5936 Sessions (423) 442-9537 Juvenile (423) 442-5631 Fax (423) 442-9538

Dear Sir:

On Jan. 14, 2010, this Office received your open records request to inspect/receive copies of ALL INFORMATION in regards to the process of selecting the grand jury in Monroe County for the past 20 years to include the names of all judges, prosecutors and any personnel that have access to information about the grand jury in Monroe County. After reviewing the request, the Office is unable to provide you with either all or part of the requested records.

The basis for this denial is No such records exists.

The law which this denial is based on is TCA 10-7-503 (2) (B) (5)

If you have any other questions please contact me.

Sincerely.

Martha M Cook Circuit Court Clerk

10-7-503. Records open to public inspection — Schedule of reasonable charges — Costs. —

- (a) (1) As used in this part and title <u>8</u>, chapter 4, part 6, "public record or records" or "state record or records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.
- (2) (A) All state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.
- (B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall, within seven (7) business days:
 - (i) Make the information available to the requestor;
- (ii) Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial; or
- (iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce the record or information.
 - (C) [Deleted by code commission.]
- (3) Failure to respond to the request as described in subdivision (a)(2) shall constitute a denial and the person making the request shall have the right to bring an action as provided in $\S 10-7-505$.
- (4) This section shall not be construed as requiring a governmental entity or public official to sort through files to compile information; however, a person requesting the information shall be allowed to inspect the nonexempt records.
- (5) This section shall not be construed as requiring a governmental entity or public official to create a record that does not exist; however, the redaction of confidential information from a public record or electronic database shall not constitute a new record.
- (6) A governmental entity is prohibited from avoiding its disclosure obligations by contractually delegating its responsibility to a private entity.
- (7) (A) A records custodian may not require a written request or assess a charge to view a public record unless otherwise required by law; however, a records custodian may require a request for copies of public records to be in writing or that the request be made on a form developed by the office of open records counsel. The records custodian may also require any citizen making a request to view a public record or to make a copy of a public record to present a photo identification, if the person possesses a photo identification, issued by a governmental entity, that includes the person's address. If a person does not possess a photo identification, the records custodian may require other forms of identification acceptable to the records custodian.

Exhibit D



Donald A. McDougail

January 28, 2010

Martha Cook Monroe County Circuit Court Clerk 105 College Street, Suite 103 Madisonville, TN 37354

Dear Ms. Cook:

RE: Request for Additional Information

This is a follow up request for additional information to my original request for information that I sent to you on January 12, 2010. In your response letter to me dated January 21, 2010 you stated that "Mr. Pettway has served as Grand Jury Foreman for approximately 27 years". I have researched the Tennessee Code and the Rules for Criminal Procedure and I cannot find anything that would indicate that a Grand Jury Foreman or Juror can serve for that length of time.

My additional questions that I would like answered are:

- 1. By what or whose authority has Mr. Pettway served as Foreman of the Monroe County Grand Jury for the past 27 years?
- 2. Are the Jurors and Foreman for the Monroe County Grand Jury selected manually or by the automated means as discussed in TCA 22-2-301?

I request this information be sent to the above address as soon as possible. Thank you for your help in this matter.

Sincerely,

Donald A. McDougail

Vice President, U.S. Grand Jury



CLERK OF THE CRIMINAL, CIRCUIT AND SESSIONS, JUVENILE COURTS

105 College Street Suite 3 Monroe County Courthouse Madisonville, Tennessee 37354 Circuit (423) 442-2396 Criminal (423) 442-5936 Sessions (423) 442-9537 Juvenile (423) 442-5631 Fax (423) 442-9538

February 1, 2010

Mr. Donald A McDougall

Re: Request for Information/ Additional

Dear Sir:

In your request for additional information received by this office on 2-02-10, the answers to your questions are as follows:

- 1. The foreperson of the Grand Jury is appointed by the judge of Criminal Court.
- 2. Our jury selection is totally automated.

Sincerely,

Martha M Cook
Circuit Court Clerk

EXHIBIT2

1 11366 10th Judicial DISTRICT Ex Rel 2 BEANCHARD Next friend Relator. CIRCUIT COURT 3 1 WILMAR CIR Address MONROE COUNTY BLAIRSVILLE, OA 30512 Tennessee Phone# Notice of Non response and Dishonor by 5 respondent(s) Clerk of the Court and Attorney General for their failure to answer Brought on behalf of the unlawfully 6 in 72 hour to show cause why WRIT OF imprisoned man 7 HABEAS CORPUS should not issue based Walter Fitzpatrick III Petitioner on Claims for relief found in the original 8 Habeas petition entered into the Clerk of the 9) Court's record on October 6, 2011 under MONROE COUNTY SHERIFF cause file # 11366 Respondent Bill Bivens et al and 10 STATE OF TENNESSE et al, Notice of Objection to irregular on it's face 11 Real Party in interest Attorney General's diversion of Habeas 12 Corpus process which is denial of a procedural due process protected right and a 13 violation at Art I section 9 the suspension clause supported by affidavit FILED 14 TIME 10:40 AMOM 15 3 Day Notice to Cure Non response, Notice to OCT 1 2 2011 cure dishonor and suspension of Habeas 16 process and immediately issue Habeas writ MARTHA M. COOK DI and bring the prisoner to an open Court of CIRCUIT COURT CLERK 17 Record within 3 days along with your affidavit of claim curing all material fact omissions demanded and disclosure of the 19) true nature and cause of his restraint and all 20 counter claims to each point of next's friend affidavit and an order for his release immediately 22 Re the matter of the Habeas Corpus For Walter Fitzpatrick III regarding the matter 23 of Inc Case No. 11-018 and 24 Inc Case No. 10-213 October 17th, 2011 Date: 26 Time: 11:00 a.m. Courtroom: 27 Comes Now WhJ. BLANCHARD 28

18

21

25

herein after called affiant and next friend of Walter Fitzpatrick III comes before the Clerk of Court in Monroe county giving lawful notice of Tort Claim by Affiant the next friend on behalf of Walter Fitzpatrick III

and Notice of Non response and Notice of dishonor by respondents named Clerk of the Court and Attorney General for their failure to answer in 72 hours and show cause why WRIT OF HABEAS CORPUS should not issue based on lawful unrebutted Claims found in the original petition.

Affiant, the next friend, on behalf of Walter Fitzpatrick III gives Notice of Objection to irregular on it's face process by the Clerk of the Court, Attorney General and Judge Caroll L Ross for fraudulent suspension and diversion of Habeas Corpus writ process pursuant to your own codes and Statutes to Attorney General et al and all Judges including the Supreme Court which is a curable tort and denial of a constitutional remedy and due process for Walter Fitzpatrick III.

Letter dated July 1 2010 and filed on July 06,2010 from Judge Carroll L Ross to all clerks re Habeas petitions herein incorporated by Reference as Exhibit attachment "D"

Affiant, the next friend, on behalf of Walter Fitzpatrick III notices all parties from his Court of Record of a 3-day Notice to cure non response and dishonor and suspension of writ tort. Respondents are noticed to immediately issue said writ and notify the affiant by fax and by phone that you are doing so at least 1 day in advance and that you are curing the dishonor, naming the location of the court room and bringing the prisoner to an open Court of Record within 3 days of this notice on Monday October 17th at 11 a.m. along with your affidavit of claim curing all material omissions. You are to disclose the true nature and cause of his restraint, all unrevealed contract breaches, all counter claims to each point of next's friend affidavit and bring an order for his release immediately.

Affiant, the next friend, on behalf of Walter Fitzpatrick III notices all parties that all respondents, upon failure to issue writ within 3 days and come into a publically open Court of Record and bring their claims under sworn affidavit, will then have, by their silence or by their obstruction and suspension for writ to issue, agreed/stipulated to as a confessed to admission to all claims contained within the original Habeas Corpus Petition entered into the court through Affiant on behalf of Walter Fitzpatrick III to the Clerk of the court being issued under cause # 11366 by affiant/ next friend on behalf of Walter Fitzpatrick III without protest or objection in any further Judicial or administrative hearing and further more will have agreed that there is no lawful cause found to allow the restraint of Walter Fitzpatrick III and therefore will immediately order his release for cause.

Affiant notices all parties that should any and all respondents named on the original petition fail to release Walter Fitzpatrick III after presenting no lawful cause for restraint and counter claims under sworn affidavit in their unlimited commercial liability at the expiration of this 3 day order to show cause why writ of habeas Corpus should not issue then they have agreed to be held fully liable in their unlimited commercial capacities and the full unlimited capacities of their sureties and insurers and to be sued for damages named therein and shall be subject to all available lawful recourse and remedies allowed

in law to resolve this matter on behalf of Walter Fitzpatrick III, a man unlawfully imprisoned as a result of irregular on it's faced process, a denial of constitutionally protected due process rights .

Notice to Bill Bivens, Sheriff of MONROE COUNTY and the Sheriff of Knoxville

You are commanded to have the body of Walter Fitzpatrick III, by whatsoever name the said Walter Fitzpatrick III shall be called or charged, alleged to be restrained by you, before the MONROE COUNTY Criminal Court, at the courthouse in said county on Monday the 17th day of October, 2011, at 11 o'clock A.M., and state in writing, sworn under oath, the truth or not that the prisoner Walter Fitzpatrick III, taken by force by MONROE COUNTY, is restrained of liberty by you and by what authority or for what cause he is restrained on the return of the writ and 3 day order to show cause hereof. Attach a copy of the original writ or warrant, if any, by virtue of which you hold him in custody; hereof if you are not to fail under the heavy penalties denounced by law against those who disobey this Writ and to submit to and receive all those things which shall then and there be considered concerning Walter Fitzpatrick III.

Please note, pursuant to your own Code, you and all others concerning this matter currently are in violation of the following and are required to cure the following within 3 days of this notice:

T.C.A 29-21-108. Duty of court Wrongful failure to grant writ.

- (a) It is the duty of the court or judge to act upon such applications instantly.
- **(b)** A wrongful and willful refusal to grant the writ, when properly applied for, is a misdemeanor in office, besides subjecting the judge to damages at the suit of the party aggrieved.[Code 1858, § 3729; Shan., § 5509; Code 1932, § 9679a; T.C.A. (orig. ed.), § 23-1808.]

T.C.A 29-21-128. Disobedience of writ or order.

Disobedience of the original writ or any subsequent order thereon, subjects the defendant to commitment for contempt, and also to a forfeiture of one thousand dollars (\$1,000) to the party aggrieved, besides rendering the defendant liable for all damages sustained in consequence of such disobedience. [Code 1858, § 3754; Shan., § 5534; Code 1932, § 9704; T.C.A. (orig. ed.), § 23-1837.]

T.C.A 29-21-129. Evasion of service. The attempt to elude the service of the writ of habeas corpus, or to avoid the effect thereof by transferring the plaintiff out of the jurisdiction or to another person, or by concealing the plaintiff, or the place of the plaintiff's confinement, is a Class C misdemeanor. [Code 1858, § 3755; Shan., § 5535; mod. Code 1932, § 9705; T.C.A. (orig. ed.), § 23-1838; Acts 1989, ch. 591, § 113.]

T.C.A 29-21-116. Defendant's appearance and return Answer.

(a) Service being made in any of the modes provided for in this part, the defendant shall

appear at the proper time, and make due return of the writ, and answer the petition, if required.

- (b) The person served with the writ shall state in the return, plainly and unequivocally:
- (1) whether the person then has, or at any time has had, the plaintiff in the person's control or restraint, and, if so, the authority and cause thereof, setting out the same fully;
- (2) if the party is detained under a writ, warrant, or other written authority, a copy thereof shall be annexed to the return, and the original shall be produced and exhibited to the court or judge, if required; and
- (3) If the person on whom the writ has been served, has had the plaintiff in the person's custody or power or under the person's restraint, at any time before or after the date of the writ, but has transferred the plaintiff to another person, that person shall state the facts explicitly, and to whom, at what time, for what cause, and by what authority such transfer was made.
- (4) The return shall be signed by the person making it, and verified by the oath; [Code 1858, §§ 3743 3745; Shan., §§ 5523 5525; Code 1932, §§ 9693 9695; T.C.A. (orig. ed.), §§ 23-1822 23-1824.]

T.C.A 29-21-115. Precept.

- (a) The court or judge to whom the application for the writ is made, if satisfied that the plaintiff is likely to suffer irreparable injury before the plaintiff could be relieved by the proceedings as authorized in §§ 29-21-112 29-21-114, may issue a precept to the sheriff, or other person selected, commanding the sheriff or other person to bring the plaintiff forthwith before such judge or court.
- (b) When the evidence is further sufficient to justify the arrest of the defendant, for a criminal offense committed in connection with the illegal detention of the plaintiff, the precept shall also contain an order for the arrest of the defendant.
- (c) The officer or person to whom the precept is directed shall execute the same by bringing the defendant, and also the plaintiff, if required, before the court or judge issuing it, and thereupon the defendant shall make return to the writ of habeas corpus in the same manner as if the ordinary course had been pursued. The defendant may also be examined and committed, bailed or discharged, according to the nature of the case. [Code 1858, §§ 3737 3740; Shan., §§ 5517 5520; Code 1932, §§ 9687 9690; T.C.A. (orig. ed.), §§ 23-1819 23-1821.]
- The Supreme Court in <u>United States v. Turkette</u>, 452, U.S. 566, 69 L.Ed 2d 246, 101 S.Crt 2524, quoting <u>United States v Culbert</u>, 435 U.S. 371, 379-380, 55 L,Ed 2d 349, 98 S. Ct.112 (1978) held: "the courts are without authority to restrict the application of the statute!"
- The fundamental requisite of "due process of law" is the opportunity to be heard." See, <u>Grannis v. Ordean</u>, 234 U.S. 385, 394, <u>Milliken v. Meyer</u>, 311 U.S. 467; <u>Priest v. Las Vegas</u>, 232 U.S. 604; <u>Roller v. Holly</u>, 176 U.S. 398:

Affidavit of M.J Blanchard in support of the facts in the matter regarding Notice of Non response and Notice of dishonor by respondents named Clerk of Court and Attorney General for their failure to answer in 72 hours and show why WRIT OF HABEAS CORPUS should not issue based on lawful unrebute Claims found in the original petition Regarding cause # 11366 *********************************	cause ted
Affidavit of M.J Blanchard in support of the facts in the matter regarding Notice of Non response and Notice of dishonor by respondents named Clerk of Court and Attorney General for their failure to answer in 72 hours and show why WRIT OF HABEAS CORPUS should not issue based on lawful unrebute Claims found in the original petition Regarding cause # 11366 *********************************	cause ted
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Court and Attorney General for their failure to answer in 72 hours and show why WRIT OF HABEAS CORPUS should not issue based on lawful unrebute Claims found in the original petition Regarding cause # 11366 *********************************	cause ted
why WRIT OF HABEAS CORPUS should not issue based on lawful unrebutt Claims found in the original petition Regarding cause # 11366 *********************************	ted
Regarding cause # 11366 Affirmati, non neganti incumbit probatio-the proof lies upon him who affirms, not who denies.	on him
7	on him
who denies.	on him
who demes.	
state } The following text is affirmed and subscribed to county} in this de jure venue; to wit:	
OFFICIAL NOTICE REQUESTED / JUDICIAL NOTICE REQUIRED Notice to agent is notice to principal and notice to principal is notice to agent.	·
I, M.J Blanchard hereinafter called "Affiant," comes now before all the world Affiant says to all the world the following: 1. Affiant's mailing location is: BT / WKIMBE CAR. BLANCARD, BA DEST. 2. Affiant is of legal age. 3. Affiant is competent to testify to the facts stated herein having firsthand knowledge facts stated herein. 4. Affiant hereafter is also called "next friend" in this matter. 5. Affiant, the next friend, on behalf of Walter Fitzpatrick III is not aware of and has no any competent documentary evidence from a competent witness with firsthand knowled showing that he did not in fact present an original petition for a Writ of Habeas Corpus to Clerk of the Court on Oct 6th 2011 in the matter regarding the unlawful restraint and imprisonment of Walter Fitzpatrick III. 6. Affiant, the next friend, on behalf of Walter Fitzpatrick III is not aware of and has not any competent documentary evidence from a competent witness with firsthand knowledge showing that the Clerk of the Court and the Attorney General and Carol Ross did not in present an unlawful scheme to the affiant by dishonoring the original petition for a Writ Habeas Corpus when the Clerk of the Court on Oct 6th 2011 used irregular on it's face proceed in the Court of Co	of the seen ge, to the fact of corocess ore a awful raint and

1	7. Affiant, the next friend, on behalf of Walter Fitzpatrick III is not aware of and has not seen
2	any competent documentary evidence from a competent witness with firsthand knowledge,
	showing there should not be any reason why respondents should not each be held in contempt
3	pursuant to T.C.A 29-21-108. Duty of court Wrongful failure to grant writ and
4	T.C.A 29-21-108. Duty of court wrongth familie to grant writ and T.C.A 29-21-128. Disobedience of writ or order and
	T.C.A 29-21-129. Evasion of service and
5	T.C.A 29-21-116. Defendant's appearance and return Answer and
6	T.C.A 29-21-115. Precept and
	for violating other of the state and national Constitution, statutes, rules, regulations and
7	applicable provisions for not immediately releasing Walter Fitzpatrick III upon their failure to
8	cure and honor the Writ of Habeas Corpus and the Petition and order made thereof.
9	8. Affiant, the next friend, on behalf of Walter Fitzpatrick III is not aware of and has not seen
10	any competent documentary evidence from a competent witness with firsthand knowledge,
	showing that respondents have not in fact agreed/stipulated to all the unrebutted claims made on
11	Affiant's original Writ of Habeas Corpus submitted into the Court record on October 6, 2011
12	with cause # 11366 issued by the Clerk of the Court and all claims made by notice spoken into the record by Walter Fitzpatrick III on Sept 23, 2011 in open court that day.
12	the record by water Phypaurck in on Sept 23, 2011 in open court mai day.
13	This deed is made under Necessity-of-Law in order to protect affiant and affiant's friend Walt
14	Fitzpatrick III's unalienable interests from trespass and harm with specific reference to Affiant's
	next friend Walter Fitzpatrick III's Right of Subrogation and Right of Recourse should harm
15	occur to affiant or Walter Fitzpatrick III's protected rights herein. Your silence stands as consent
16	to, and tacit approval of, the factual declarations herein being established as fact as a matter of
10	law. May the will of our Heavenly Father (Yahvah), through the power and authority of the
17	blood of His Son (Yahshua) be done on Earth as it is in Heaven.
10	Reserving ALL Natural God-Given Unalienable Birthrights, Waiving None, Ever,
18	28 USC §1746
19	I declare under penalty of perjury, under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. 28 USC §1746
20	Signed on this the day of October in the year of our Lord and Savior two thousand
	eleven.
21	666161A Republic.
22	All rights reserved
	Affiant's autograph
23	On theday of the month of October, 2011 a.d., a man who identified himself
24	MA (il
	as ////////////////////////////////////
25	атпам в рением наме
26	Lea An Monotary, and attested to the truth of this affidavit contained herein
	Notary's printed name
27	with his signature /seal affixed upon this document.
28	
	Seal Seal Seal Seal Seal Seal Seal Seal
	Notary Public signature
	PURITO SE
	Case 2:12 ov 00049 Decument 1 1 Filed 01/20/12 Dece 07 of 65 mm
	Case 3:12-cv-00048 Document 1-1 Filed 01/30/12 Page 97 of Page 13:4: 203
•	

1	No <u>1136</u>	66
2		
3	Ex Rel	10th Judicial DISTRICT
4	Relator, Next friend) CIRCUIT COURT
5	MI, J. BLANCHARD	MONROE COUNTY Tennessee
6	Address BLAIRS VILLE, GA 30572)	Exhibit Attachment "D"
7	Phone# 706-195-7201	Letter dated July 1 2010 and filed on July
8	The Unlawfully imprisoned	06,2010 from Judge Carroll L Ross to all clerks re Habeas petitions
9	Walter Fitzpatrick III Petitioner) magning the metter
10	v.) regarding the matter) of Inc Case No. 11-018 and
11	MONROE COUNTY SHERIFF	Inc Case No. 10-213
12	Respondent Bill Bivens et al and	Lawful notice to those doing their unlawful
13	STATE OF TENNESSE et al,) acts against Walter Fitzpatrick III
14	Real Party in interest	,)
15)
16)
17		
18)
19		

Exhibit Attachment "D"

Letter dated July 1, 2010 and filed on July 06,2010 from Judge Carroll L Ross to all clerks re Habeas petitions regarding the matter of Inc Case No. 11-018 and Inc Case No. 10-213



EXHIBITI



FILED TIME ____AM / PM

JUL 06 2010

MARTHAM, COOK OROUT COURT CLERK

STATE OF TENNESSEE

CIRCUIT COURT

TENTH JUDICIAL DISTRICT July 1, 2010

130 E. WASHINGTON AVE., STE. 3 P.O. BOX 1356 ATHENS, TENNESSEE 37371-1356

CARROLL L. ROSS CIRCUIT JUDGE, PART III (423) 744-2835

10th Judicial District

To All Clerks:

RE: Habeas Corpus Petitions

At judicial conference last week, we were advised that in the future when we receive a Petition for Habeas Corpus a copy should immediately be sent to the state Attorney General's office.

They will prepare an order of Dismissal if the petition doesn't state a legitimate claim for relief, and, if it does state a claim for relief, they will handle the case for us.

From now on, please forward a copy of all Petitions for Habeas Corpus relief to:

Mr. Matthew Bryant Haskell Assistant Attorney General Criminal Justice Division P.O. Box 20207 Nashville, Tennessee 37202 PH: (615) 532-1955

Thank you for your attention to this matter.

Very truly yours,

CARROLL L. ROSS

Judge Amy Reedy

/clr



EXHIBIT 3

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No 11366

Ex Rel Relator,	M.S. SLANCHARD Next friend)
Address	
Dhonatt	BENIESLICE, BA 30512)

Brought on behalf of the unlawfully imprisoned man
Walter Fitzpatrick III Petitioner

MONROE COUNTY SHERIFF
Respondent Bill Bivens et al and
STATE OF TENNESSE et al,
Real Party in interest



10th Judicial DISTRICT
CIRCUIT COURT
MONROE COUNTY
Tennessee

Notice of Entry of Default Judgment for Dishonor by Respondent(s)

Clerk of the Court and Attorney General et al and all others named therein for their failure to answer and cure dishonor of state and federal law and for their failure to evidence a lawful claim regarding original Habeas Corpus petition entered into the Clerk of the Court's record on October 6, 2011 under cause file # 11366

For failure to state a claim for relief and for failure to respond and rebut claims regarding: Notice of Objection to irregular on it's face Attorney General's diversion of Habeas Corpus process which is a stipulated to confession of denial of procedural due process protected rights and violations of Art I section 9 the suspension clause Tenn. State codes regulations and statutes supported by affidavit entered into the Clerk of the Court's record on October 12, 2011 under cause file # 11366 For failure to respond and Cure: 3 Day Notice to Cure Non response, Notice to cure dishonor and suspension of Habeas process and immediately issue Habeas Writ to bring the prisoner into an open Court of Record within 3 days along with their affidavits of claim curing all material fact omissions demanded and make disclosure of the true nature and cause of his restraint and all counter claims to each point of next's friend affidavit and for failing to order Walter Fitzpatrick III's immediate release entered into the Clerk of the Court's record on October 12, 2011 under cause file # 11366 Next friend moves the court to: Vacate with Prejudice Inc Case No. 11-018 and Inc Case No. 10-213 For lawful cause supported

Next friend moves the court to: Vacate with Prejudice Inc Case No. 11-018 and Inc Case No. 10-213 For lawful cause supported by affidavit and claims for relief contained in the original Habeas Corpus petition cause # 11366 and Issue a Court Order for the immediate release of Walter Fitzpatrick III

Comes Now M.J Blanchard, herein after called affiant and next friend of Walter Fitzpatrick III, before the Clerk of Court in Monroe County giving lawful notice of Entry of Default Judgment for Dishonor by Respondent(s) Clerk of the Court and Attorney General et al and all others named therein into the Court of Record for their failure to answer and cure dishonor of State and federal Law and for their failure to evidence a lawful claim for relief regarding original Habeas petition and claims expressed therein entered into the Clerk of the Court's record on October 6, 2011 under cause file # 11366 by Affiant, the next friend, on behalf of Walter Fitzpatrick III.

Additionally, Affiant the next friend on behalf of Walter Fitzpatrick III gives notice of respondents' failure to respond and rebut claims regarding: Notice of Objection to irregular on it's face Attorney General's and judge Carroll Ross' intentional diversion of Habeas Corpus process which is a denial of Walter Fitzpatrick III's lawfully protected right to procedural and substantive due process in law and apparent violations of Art I section 9 the suspension clause of the U.S Constitution and other constitutional provisions named more fully herein, as well as Tenn. State codes regulations and statutes named more fully herein entered into the Clerk of the Court's record on October 12, 2011 under cause file # 11366.

Additionally, respondents failed to respond and Cure: 3 Day Notice to Cure Non response, Notice to cure dishonor and suspension of Habeas process and either immediately issue. Habeas Writ to bring the prisoner into an open Court of Record within 3 days along with their affidavits of claim curing all material fact omissions demanded and make disclosure of the true nature and cause of his restraint and all counter claims to each point of next's friend affidavit and for failing to order Walter Fitzpatrick III's immediate release or in the alternative if they did not wish to answer and stand mute. Herein entered into the Clerk of the Court's record on October 12, 2011 under cause file # 11366.

The Habeas Corpus petition is lawful notification to the respondent parties named therein, pursuant to The Bill of Rights of the National Constitution, in particular, the First, Fourth, Fifth, Sixth, Ninth, Tenth and Eleventh Amendments and The Bill of Rights of the Tennessee Constitution and pursuant to respondent parties' oath, and required their response to Affiant and that lawful process specific to the subject matter.

Failure to respond, within the time frame, as stipulated, and rebut, with particularity, any thing and everything In that original Habeas Corpus filed under cause # 11366 and the Notice to cure your non response with which the respondent parties disagree which is and was their lawful, legal and binding agreement /stipulation with and admission/confession to the fact that everything in that Habeas Corpus petition and affidavits supporting Walter Fitzpatrick III's innocence is tacitly admitted to as being unrebutted as true, correct, legal, lawful and binding upon respondents named therein by respondents/and all others, in

1 any court, anywhere in America, or internationally without their protest or objection or that of those who represent them and or all others. 2 3 The respondent parties' silence is/was their acquiescence. See: Connally v. General Construction Co., 269 U.S. 385, 391. Notification of their legal responsibility is "the first 4 essential of due process of law." Also, see: U.S. v. Tweel, 550 F. 2d. 297. "Silence can 5 only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading." 6 7 Next friend on behalf of Walter Fitzpatrick III Judicially Notices the Court of Estoppel and latches against the respondents named in the original Petition of Habeas Corpus 8 cause # 11366 for their failure to prosecute their claim when lawfully challenged. This matter is now deemed Res Judicata. A nihil dicit default judgment has been taken 10 against the respondents for their failure to prosecute their claim /cause of why and for what lawful foundation they are holding Walter Fitzpatrick III by sworn affidavit of their 11 own. Their failure to bring their sworn affidavits of claims forward when demanded by 12 this Court of Record finds them without lawful foundation and jurisdiction for denying Walter Fitzpatrick III due process in law pursuant to the mandatory provisions of original 13 US Constitution circ 1787 amended at the Bill of Rights 1791 and mandatory provisions 14 of the Tennessee State Constitution especially Art XI § 16. Bill of Rights declared inviolate 15 16 Next friend on behalf of Walter Fitzpatrick III Judicially Notices the Court: To Vacate with Prejudice Inc Case No. 11-018 and Inc Case No. 10-213 For lawful cause found and 17 supported in the petition of original Habeas Corpus entered in to the Court of Record 18 under cause # 11366 with the Clerk of the Court on October 6, 2011 pursuant to the cause of justice and to restore the peace. 19 20 Next friend on behalf of Walter Fitzpatrick III moves the court to Issue attached Court Order for the immediate release of Walter Fitzpatrick III and 21 Court Order for vacating Inc Case No. 10-213 and Inc Case No. 11-018 for 22 lawful cause. 23 Respondents are fully aware they cannot hold a public office under oath and levy war 24 against the mandatory provisions of the Constitution, both state and national, and it's statues with out being in violation of at least the following: 25

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Tennessee State Constitution

In the matter Regarding case # Inc Case No. 10-213 and Inc Case No. 11-018 Judicial Cognizance and Notice

Art I section 9 of the US Constitution the suspension clause and First, Fourth, Fifth,

Sixth, Ninth, Tenth and Eleventh Amendments, there of and

§ 1. Powers of people

1	Tennessee State constitution cont.
2	§ 6. Trial by jury; jurors
3	§ 7. Searches and seizures; warrants
	§ 8. Deprivation of life, liberty or property under law; due process
4	§ 9. Rights of accused
5	
	§ 15. Bail; habeas corpus
6	§ 16. Excessive bail or fines; cruel and unusual punishment
_	§ 17. Remedies in courts, suits against state
7	§ 18. Imprisonment for debt
8	§ 19. Freedom of speech and press; defamation
	§ 22. Perpetuities and monopolies
9	§ 25. Martial law
LO	§ 26. Weapons; right to bear arms
	§ 30. Hereditary emoluments, privileges or honors
11	§ 31. State boundaries
,	§ 33. Slavery
12	art II § 1. Separation of powers; branches of government
13	art VI § 11. Disqualification of judges
	Art X § 1. Oath of office
L4	art XI § 16. Bill of rights declared inviolate
L5	
	Tennessee State Statues
16	
L7	Regarding Case # Inc. Case No. 10-213 Judicial Cognizance and Notice
	(TCA 22-2-304): No judge is allowed to pick any juror. The process of selecting jurors must
1.8	be done using an automated process that prevents the possibility of any human agency
19	(TCA 22-2-314): Once a term of jury service is completed in Tennessee State, the dismissed
	juror is prohibited by law from serving on any Tennessee State jury for a minimum period of
20	twenty-four (24) months
, ,	TCA 39-16-402 (Official misconduct) and TCA 39-16-403 (Official oppression).
21	Specific felony criminal acts supporting a Citizens' Arrest include
22	TCA 40-7-110 and TCA 39-16-402
	rights protected in law to make such arrest are protected under Tennessee state law
23	TCA 40-7-101: An arrest may be made by a private person.
24	TCA 40-7-103: Grounds for arrest without a Warrant.
	TCA 40-7-109: A private person may arrest another for a public offense committed in the
25	arresting person's presence, or when the person arrested has committed a felony (although no
,	in the arresting persons' presence), or when a felony has been committed and the arresting
26	person has reasonable cause to believe that the arrested person committed the felony.
27	TCA 40-7-110: "A private person may make an arrest for a felony at any time."
	TCA 40-7-111: Notice of grounds in support of arrest at time of arrest by a private person of
8 8	another.
	TCA 40-7-112: Notice of intention to make an arrest - "If the person to be arrested has
	committed a felony, and a private person, after notice of the person's intention to make the

arrest, is refused admittance, the arresting person may break open an outer or inner door or window of a dwelling house to make the arrest."

TCA 40-7-113: "A private person who has arrested another for a public offense shall, without unnecessary delay...deliver the arrested person to an officer."

Regarding

Regarding case # Inc Case No. 11-018, Inc Case No. 10-213 and cause # 11366 Judicial Cognizance and Notice

T.C.A 29-21-108. Duty of court wrongful failure to grant writ.

- (a) It is the duty of the court or judge to act upon such applications instantly.
- **(b)** A wrongful and willful refusal to grant the writ, when properly applied for, is a misdemeanor in office, besides subjecting the judge to damages at the suit of the party aggrieved.[Code 1858, § 3729; Shan., § 5509; Code 1932, § 9679a; T.C.A. (orig. ed.), § 23-1808.]

T.C.A 29-21-128. Disobedience of writ or order.

Disobedience of the original writ or any subsequent order thereon, subjects the defendant to commitment for contempt, and also to a forfeiture of one thousand dollars (\$1,000) to the party aggrieved, besides rendering the defendant liable for all damages sustained in consequence of such disobedience. [Code 1858, § 3754; Shan., § 5534; Code 1932, § 9704; T.C.A. (orig. ed.), § 23-1837.]

T.C.A 29-21-129. Evasion of service. The attempt to elude the service of the Writ of Habeas Corpus, or to avoid the effect thereof by transferring the plaintiff out of the jurisdiction or to another person, or by concealing the plaintiff, or the place of the plaintiff's confinement, is a Class C misdemeanor. [Code 1858, § 3755; Shan., § 5535; mod. Code 1932, § 9705; T.C.A. (orig. ed.), § 23-1838; Acts 1989, ch. 591, § 113.]

T.C.A 29-21-116. Defendant's appearance and return Answer.

- (a) Service being made in any of the modes provided for in this part, the defendant shall appear at the proper time, and make due return of the writ, and answer the petition, if required.

 (b) The person served with the writ shall state in the return, plainly and unequivocally:
- (1) whether the person then has, or at any time has had, the plaintiff in the person's control or restraint, and, if so, the authority and cause thereof, setting out the same fully;
- (2) if the party is detained under a writ, warrant, or other written authority, a copy thereof shall be annexed to the return, and the original shall be produced and exhibited to the court or judge, if required; and
- (3) If the person on whom the writ has been served, has had the plaintiff in the person's custody or power or under the person's restraint, at any time before or after the date of the writ, but has transferred the plaintiff to another person, that person shall state the facts explicitly, and to whom, at what time, for what cause, and by what authority such transfer was made.
- (4) The return shall be signed by the person making it, and verified by the oath; [Code 1858, §§ 3743 3745; Shan., §§ 5523 5525; Code 1932, §§ 9693 9695; T.C.A. (orig. ed.), §§ 23-1822 23-1824.]
- T.C.A 29-21-115. Precept. (a) The court or judge to whom the application for the writ is made, if satisfied that the plaintiff is likely to suffer irreparable injury before the plaintiff

1 could be relieved by the proceedings as authorized in §§ 29-21-112 29-21-114, may issue a precept to the sheriff, or other person selected, commanding the sheriff or other person to 2 bring the plaintiff forthwith before such judge or court. (b) When the evidence is further sufficient to justify the arrest of the defendant, for a criminal 3 offense committed in connection with the illegal detention of the plaintiff, the precept shall 4 also contain an order for the arrest of the defendant. (c) The officer or person to whom the precept is directed shall execute the same by bringing 5 the defendant, and also the plaintiff, if required, before the court or judge issuing it, and thereupon the defendant shall make return to the writ of habeas corpus in the same manner as 6 if the ordinary course had been pursued. The defendant may also be examined and committed, 7 bailed or discharged, according to the nature of the case. [Code 1858, §§ 3737 3740; Shan., §§ 5517 5520; Code 1932, §§ 9687 9690; T.C.A. (orig. ed.), §§ 23-1819 23-1821.] 8 **United States Statutes** 9 16 Stat. 419, 426, § 34 (1871); 18 Stat. 325, 333, § 1891 (1873). The U.S. Constitution is expressly in force within the District of Columbia ("D.C."), all federal 10 Territories and all 50 States. 11 Case law 12 "The courts are without authority to restrict the application of the statute!" The Supreme Court in *United States v. Turkette*, 452, U.S. 566, 69 L.Ed 2d 246, 101 S.Crt 13 2524, quoting United States v Culbert, 435 U.S. 371, 379-380, 55 L.Ed 2d 349, 98 S. Ct.112 14 (1978)15 The fundamental requisite of "due process of law" is the opportunity to be heard." See, Grannis v. Ordean, 234 U.S. 385, 394, Milliken v. Meyer, 311 U.S. 467; Priest v. Las Vegas, 232 16 U.S. 604; Roller v. Holly, 176 U.S. 398: 17 **Unites States Code** 18 ☐ Insurrection against the Constitution by inciting, assisting or engaging in rebellion against the Constitutional authority of 19 the United States of America (18 U.S.C. Sec. 2383); Perjury against his/her oath of office by subscribing to a material matter he/she knows to be false (18 U.S.C. Sec. 1621); 20 ☐ Subornation of perjury by procuring another to commit perjury (18 U.S.C. Sec. 1622); ☐ Treason against the American People by levying war against their Constitution or aiding its enemies (Article III, Section 3: 21 18 U.S.C. Sec. 2381); ☐ Sedition/seditious conspiracy by conspiring to overthrow the Constitutional government or delay the execution of a law of 22 the United States of America (18 U.S.C. Sec. 2384); ☐ Misprison of treason by failing to report treason when so noted (18 U.S.C. Sec. 2382); Misprison of felony by failing to report commission of a felony when so noted (18 U.S.C. Sec. 4); 23 ☐ Impeding due exercise of rights by attempting to prevent, obstruct, impede or interfere with same (18 U.S.C. Sec. 1509); ☐ Fraud by a judge by falsifying or concealing a material fact, making a false representation, writing a false document, or 24 having knowledge that a document is false (18 U.S.C. Sec. 1001); ☐ Making a false declaration before a United States court (18 U.S.C. Sec. 1623); 25 Racketeering by conducting an ongoing enterprise of robbery, bribery, extortion, or threats of same (18 U.S.C. Sec. 1962); ☐ Obstructing a criminal investigation by preventing the communication of information relating to a violation of any criminal 26 statute of the United States to a criminal investigator (18 U.S.C. 1510)

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Aiding / abetting slavery by holding, returning or arresting any person to return him/her to peonage (13th Amendment; 18

Involuntary judgment by acknowledging or procuring to be acknowledged any judgment in the name of any other violation

18 U.S.C. Sec. 1583 Mailing threatening communications by causing to be mailed any a demand for reward for the release

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of 18 U.S.C. Sec. 911 (13th Amendment;

U.S.C. Sec. 1581);

of any kidnapped person (13th Amendment; 18 U.S.C. Sec. 876);

1 Unites States Code cont. 2 ☐ Enticement to slavery by enticing, persuading, inducing or carrying away a person with the intent of selling the person into involuntary servitude (13th Amendment; 18 U.S.C. Sec. 1583); 3 Enticement to slavery by ordering a person to falsely re-present him/herself as an en legis chattel property of the United States INC Foreign corporation held captive under a constructive trust in Rem under roman civil law 4 ☐ Theft within the special maritime jurisdiction by obtaining something of value from a person or procuring the execution. endorsement, or signature and delivery of a negotiable instrument, draft, check or real or personal property under fraud or 5 false pretenses (18 U.S.C. Sec. 1025); Retaliation against a witness (18 U.S.C. Sec. 1513); ☐ Tampering with a witness (18 U.S.C. Sec. 1512); 6 42 U.S.C. § 1985, □ 42 U.S.C.§1986, 7 □ 18 U.S.C. § 4, □ 18 U.S.C.§3, 8 □ 18 U.S.C.§ 1505 □ 18 U.S.C. §2, □ 18 U.S.C. §1, □ 18 U.S.C. § 1513 10 □ 18 U.S.C. § 2382, □ 18 U.S.C.§1621 ☐ 18 U.S.C § 1964(a) & (c) 11 □ 18 U.S.C § 1968 □ 18 U.S.C § 1341, 12 ☐ 18 U.S.C.§1001 18 USC § 1346.

USC 18 §242

U.S. Const. Art. III § 3,

My Positive Law which is published & codified in the 10 Commandments of Tim (Yahvah) and amplified by the amendments of the New Covenant of Yahshua (Jesus).

Corpus dilecti is used for or refers to the body of the crime, to all the facts and circumstances that together constitute a breach of the law, to describe the evidence that proves that a crime has been committed and for failure to bring forth sworn reliable, probative and truthful evidence of the body of the crime.

As Such it is decreed that for failing to bring forth the corpus dilecti because no accusers would present facts, law and evidence supported by lawful claims sworn under penalties for perjury in their unlimited commercial liability when challenged by this Court of Record to do so including the substance or fundamental facts of crime respondent parties allege Walter Fitzpatrick III committed, this Next Friend and the Court of Record find no lawful cause to continue to hold in restraint Walter Fitzpatrick III.

Next friend on behalf of Walter Fitzpatrick III Judicially Notices the Court to obey the law and issue the order attached herein to immediate release from your restraint Walter Fitzpatrick III, an innocent man, and Vacate with Prejudice Inc Case No. 11-018 and Inc Case No. 10-213 For lawful cause

Respectful Submitted

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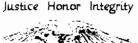
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1 Affidavit of M.J Blanchard in support of the facts in the matter regarding Lawful unrebutted claims found in the original petition and notice to cure 2 Regarding cause # 11366 *<<<<<<<<*<< >>>>>>>>>>>>>>>> 3 4 Affirmati, non neganti incumbit probatio-the proof lies upon him who affirms, not on him 5 who denies. 6 STATE OF TENNESSE 7 SS 8 MONROE COUNTY OFFICIAL NOTICE REQUESTED / JUDICIAL NOTICE REQUIRED Notice to agent is notice to principal and notice to principal is notice to agent. 10 11 I, M.J Blanchard hereinafter called "Affiant," comes now before all the world, and 12 Affiant says to all the world the following: Affiant's mailing location is: 13 Affiant is of legal age. 14 3. Affiant is competent to testify to the facts stated herein having firsthand knowledge of the facts stated herein. 15 4. Affiant hereafter is also called "next friend" in this matter. 16 5 Affiant, the next friend, on behalf of Walter Fitzpatrick III is not aware of and has not seen 17 any competent documentary evidence from a competent witness with firsthand knowledge, showing that he did not in fact present an original petition for a Writ of Habeas Corpus to the 18 Clerk of the Court on Oct 6th 2011 and Notice to cure their non response on October 12th 2011 in the matter regarding the unlawful restraint and imprisonment of Walter Fitzpatrick III. 19 20 6. Affiant, the next friend, on behalf of Walter Fitzpatrick III is not aware of and has not seen any competent documentary evidence from a competent witness with firsthand knowledge, 21 showing that the Clerk of the Court and the Attorney General and Carol Ross did not in fact 22 present an unlawful scheme to the affiant by dishonoring the original petition for a Writ of Habeas Corpus when the Clerk of the Court on Oct 6th 2011 used irregular on it's face process 23 issued by Judge Ross by way of notice to the clerk and diverted the writ from going before a judge or open a Court of Record in 72 hours to inquire into the matter regarding the unlawful 24 restraint and imprisonment of Walter Fitzpatrick III to determine the merits of such restraint and 25 to see if any lawful cause exists to continue such restrain or to order Walter Fitzpatrick III's release. 26 27 7. Affiant, the next friend, on behalf of Walter Fitzpatrick III is not aware of and has not seen 28 any competent documentary evidence from a competent witness with firsthand knowledge, showing there should not be any reason why respondents should not immediately release Walter Fitzpatrick III for failing to answer the original habeas petition entered into the court record on

	**************************************	West Ren
1	No. 1	11366
2	Ex Rel)
	Relator, Next friend	10th Judicial DISTRICT
3	Address	CIRCUIT COURT
4	Phone#	MONROE COUNTY
5		Tennessee
6	Brought on behalf of the unlawfully	ODDED CDANTING Source Hade Delaced
	imprisoned man Walter Fitzpatrick III Petitioner	ORDER GRANTING immediate Release from restraint Walter Fitzpatrick III
7	v.)
8	MONROE COUNTY SHERIFF	ORDER VACATING THE MATTER OF
9	Respondent Bill Bivens et al and	Case No. 11-018 and Case No. 10-213
10	STATE OF TENNESSE et al,	For cause With Prejudice
10	Real Party in interest	·
11	<u> </u>	,
12	ORDER GRANTING immediate Release fro	m restraint Walter Fitzpatrick III
13	Upon reading the petition filed by M.J Blanchar	<u>-</u>
.	III, duly signed and verified by M.J Blanchard,	
14	Fitzpatrick III is restrained of his liberty without	t lawful cause by Bill Bivens, MONROE
15		ed illegality and unlawfulness exists to continue
16	his restraint, from which it appears that this ord	ler for the immediate Release from restraint of
17	Walter Fitzpatrick III ought to issue; ORDER VACATING THE MATTER OF Ca	ogo No. 11 019 and Coso No. 10 212
	For cause With Prejudice, Upon reading the pet	
18	court record filed by M.J Blanchard next friend	
19	and verified by M.J Blanchard, whereby it appe	•
20	rebuttal in response to facts, law and evidence e next friend on behalf of Walter Fitzpatrick III st	
21	to continue to prosecute Case No. 11-018 and C	
	it's case by sworn facts, law and evidence by a t	
22	record to Vacate as Void Case No. 11-018 and C	Case No. 10-213 for lawful cause er for the immediate Release from restraint of
23	· · · · · · · · · · · · · · · · · · ·	by the county clerk under seal of the MONROE
24		aid Bill Bivens, MONROE COUNTY Sheriff, as
25	stated above, commanding him to Release Walte	er Fitzpatrick III before the end of this day
	according to law, and that the matter of Case No	
26	vacated as void with prejudice, all bond recalled	* * *
27	Fitzpatrick III_dispersed SIGNED this	day of October 2011.
28		
	JUDGE PRESII	DING
	· ·	10 -



Exhibit #4





Presented under Seal: Official Business

From Michael Lerman C/O Office of the Republic Citizens' Ombudsman 11037 Warner Ave., # 304, Fountain Valley, California 92708

Notice regarding default / dishonor regarding matter of Habeas Corpus filed by MJ Blanchard into the Monroe County Court Record regarding cause file # 11366 Notice and demand to cure default/dishonor by ordering the immediate and unconditional release of Walter Fitzpatrick III and vacate cases # 11-018 and 10-213 and void all judgments against him

October 24, 2011

To: Chief Justice Janice Holder Tennessee Supreme Court et al

NOTICE TO AGENT IS NOTICE TO PRINCIPAL AND NOTICE TO PRINCIPAL IS NOTICE TO AGENT

Dear Ms. Holder.

It has come to the attention of my office that an attempt to place a Writ of Habeas Corpus and other associated follow-up documents (see enclosed Documents) under cause file # 11366 to address irregular on it's face process and abuse of due process against a prisoner named Lt Cdr. Walter Fitzpatrick III (U.S. Navy, Ret) and to secure his release from an unlawful incarceration have been dishonored.

The Habeas Corpus, as you know, is a lawful instrument to forensically inspect the cases against Mr. Fitzpatrick. These instruments were dishonored and unlawfully suppressed 3 times a willful and blatant denial of Lt. Cdr. Walter Fitzpatrick III's constitutional protections in law.

As the Chief Justice of the Tennessee Supreme Court, I think you understand the gravity of the matter here and that a denial of the protections of due process rights in law are immediate grounds for the release of Lt. Cdr. Walter Fitzpatrick III. This is not discretionary but mandatory as required under law.

This notice and a copy of the evidence of the dishonor of the Habeas Corpus enclosed is presented to you as an attempt for you to bring the State of Tennessee et al back into compliance Fitzpatrick III immediately. This office demands that you and those representing the state of Tennessee honor your/their oath(s) of office and order the immediate release of Walter Fitzpatrick III and order officers of the State to cease and desist any actions to the contrary against Walter Fitzpatrick III.

It cannot be said you do not understand your duty at this moment in time pursuant to your oath and said duty. You are placed on notice of your personal and your state's liability and responsibility at this point if you fail to release Walter Fitzpatrick III or if he is injured any further.

I would like to remind you that he is still a U.S. Navy Commissioned Officer even though retired. His Oath, Commission and Lawful duty that come with that oath do not extinguish because he is currently in retirement status, especially when our nation is under extreme threat of harm as it is currently under.

Walter Fitzpatrick III, a Retired Commissioned Officer, was under lawful duty when he discovered our nation is being subverted by hostile subversives and was in pursuant of these Domestic Enemies when he was unlawfully obstructed from carrying out that lawful duty by the grand jury foreman and others. During this process fraud by grand jury foreman and others was exposed. Our nation is under extreme duress and harm from enemies abroad and from domestic enemies within and if they are allowed to carry out to completion their war plan because of your obstruction of Walter Fitzpatrick III's investigation you and those that aided and abetted this obstruction will be held fully liable.

You have three days from receipt of this notice to obey the law and order the immediate release of Lt. Cdr. Walter Fitzpatrick III (U.S. Navy, Ret) and notice myself and my office, C/o of the notary acceptor who sealed this correspondence, on behalf of Walter Fitzpatrict III and myself that you have done so.

NOTICE of 18 U.S.C. § 4 Misprision of a felony and violations of the following 42 U.S.C.§1985, 42 U.S.C.§1986,18 U.S.C.§3,18 U.S.C.§ 1505, 18 U.S.C. §2,18 U.S.C. §1,18 U.S.C. § 1513,18 U.S.C. § 2382, 18 U.S.C.§1621,18 U.S.C.§ 1964(a) & (c) 18 U.S.C.§ 1968,18 U.S.C.§ 1341, 18 U.S.C.§1001,18 USC § 1346, USC 18 §242 U.S. Const. Art. III § 3, and others not yet named herein if Walter Fitzpatrick III is not ordered immediately released by your office, three business days after receiving this notice, an unanswered/dishonored Habeas Petition for Walter Fitzpatrick III's release.

Respectfully,

Michael Lerman (U.S. Navy Veteran), all rights reserved

Office of the Republic Citizens' Ombudsman, Constitutional Oversight and Constitutional Violations Investigation Commission

CERTIFICATE OF ACKNOWLEDGMENT

State of California) County of Overego)
On Date Date (here insert name and title of the officer) personally appeared (here insert name and title of the officer) who proved to me on the basis of satisfactory evidence to be the person (s) whose name (s) (s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature (s) on the instrument the person (s), or the entity upon behalf of which the person (s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal. TRANG VAN TRAN COMM. #1941243 HOTARY PUBLIC - CALIFORNIA ORANGE COUNTY My Comm. Expires Jun. 17, 2015
Signature Signature of Notary Public Place Notary Seal Above

Exhibit #5

PRESENTMENT OF NOTICE AND CLAIM UNDER NOTARY SEAL

NOTICE TO AGENT IS NOTICE TO PRINCIPAL

From: Trang Tan Tran, Notary Public/ Acceptor

Send All Responses to:
Michael Lerman
Republic Citizen's Ombudsman
C/O Notary Acceptor
11037 Warner Ave., # 304
Fountain Valley, California 92708

To: Chief Justice Janice Holder
Tennessee Supreme Court et al
401 Seventh Avenue North
Nashville, TN 37219-1407

RE: Walter Fitzpatrick III

October 25, 2011

Service: USPS Certified Mail Article No. 7009 0820 0002 1069 2923

Notary's Certificate of Service.

Dear Ms Holder,

I have been contacted by Michael Lerman for the purpose of presenting a claim under notary seal.

I have been asked to mention that:

- i) the original petition for a Writ of Habeas Corpus for Walter Fitzpatrick III supporting the lawful claim for Mr. Walter Fitzpatrick III's release, supported by unrebutted affidavit, and notice of non response by respondents with opportunity to cure and notice of entry of default judgment supported by unrebutted Affidavit and the Ombudsman notice/letter from Michael Lerman is the principal's claim and response to your(s) and your Agent's defective non-responses, dated October 6th, 12th, 17th respectively.
- ii) You may rebut the statements and claims in the Ombudsman notice/letter issued by Michael Lerman and the Habeas Corpus, notices and Affidavit(s) submitted by MJ Blanchard into the court record, by executing a sworn, verified response point-by-point under your own affidavit with evidence that is certified to be true, correct and complete, to be received by the principal no later than ten (10) days from this postmark;
- iii) Your failure to respond to the Ombudsman notice/letter, to the Habeas Corpus, to the Notices for non response /for entry of default judgment and to the supporting Affidavits contained therein conveys your agreement with all of the statements and facts set forth within them:

iv) Your response to the Ombudsman notice/letter issued by Michael Lerman and the Habeas Corpus, notices and Affidavit(s) submitted by MJ Blanchard into the court record, is to be received through me no later than ten (10) days from this postmark to prevent issuance of a certificate of protest verifying your non-response and default pursuant to my statutory authority; and

That observation in facilitation of international notary practices should not be deemed or misconstrued in any way as a practice of law. I'm just a duty-bound messenger called on to officially witness your response, (honor) or your non response (dishonor) pursuant to my official notary duties CA. GOV. CODE §8205 (DUTIES)

Thank you for your assistance. All communication should be delivered through me at the above address by Registered or Certified Mail to ensure delivery and appropriate certification.

Service in any other manner will be deemed defective on its face.

WITNESS my hand and official seal.		
Ti cicult	125/11	_ (Seal)
NOTARY PUBLIC	DATE	
My commission expires:	(Stamp)	TRANG VAN TRAN COMM. #1941243 NOTARY PUBLIC - CALIFORNIA ORANGE COUNTY My Comm. Expires Jun. 17, 2015

EXHIBIT #6

CEXENIOU IVERIL # 1000 COAR DUVE TOOK AVAS

Certificate of Mailing Affidavit of Service

California (State) The following text

is affirmed and subscribed to

Orange County } in this de jure venue; to wit:

On the date of October 25, 2011, the undersigned caused to be mailed a true, correct and complete copy of the following documents:

- 1. Certified Mail Notice # 7609 6820 6662 1959 2923 from Michael Lerman, a document titled,
 Notice regarding default / dishonor regarding matter of Habeas Corpus filed by MJ Blanchard into the Monroe County
 Court record regarding cause file # 11366, Notice and demand to cure default/dishonor by ordering the immediate
 and unconditional release of Walter Fitzpatrick III and vacate cases # 11-018 and 10-213 and void all
 judgments against him re matter of cause file # 11366 and cases # 11-018 and 10-213 dated October 21, 2011
- 2. First set of Documents filed by MJ Blanchard Oct 6, 2011 ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS, PETITION FOR GREAT WRIT OF HABEAS CORPUS On behalf Walter Fitzpatrick III AS PRESENTED BY AFFIDAVIT OF MJ Blanchard, Notice to Vacate Void Judgment and sentence of the accused in the following cases for cause Re: Criminal Court. Monroe County Inc Case No. 11-018 and Inc Case No. 10-213 herein for lawful cause Notice to release Walter Fitzpatrick a man unlawfully imprisoned Cause file # 11366 with attachments exhibits "A," "B," "C"
- 3. Second set of Documents filed by MJ Blanchard Oct 12, 2011 Notice of Non response and Dishonor by respondent(s) Clerk of the Court and Attorney General for their failure to answer in 72 hour to show cause why WRIT OF HABEAS CORPUS should not issue based on Claims for relief found in the original Habeas petition entered into the Clerk of the Court's record on October 6, 2011 under cause file # 11366 Notice of Objection to irregular on it's face Attorney General's diversion of Habeas Corpus process which is denial of a procedural due process protected right and a violation at Art I section 9 the suspension clause supported by affidavit 3 Day Notice to Cure Non response. Notice to cure dishonor and suspension of Habeas process and immediately issue. Habeas writ and bring the prisoner to an open Court of Record within 3 days along with your affidavit of claim euring all material fact omissions demanded and disclosure of the true nature and cause of his restraint and all counter claims to each point of next's friend affidavit and an order for his release immediately with attachment exhibit "D"
- 4. Third set of Documents filed by MJ Blanchard October 17. 2011 Notice of Entry of Default Judgment for Dishonor by Respondent(s)
- 5. PRESENTMENT OF NOTICE AND CLAIM UNDER NOTARY SEAL motory letter

To be placed into an individually addressed envelope to the following persons and personally caused the envelope to be mailed by copies of the above listed documents via Certified Mail Notice # 7009 0820 0002 1069 2923 with postage prepaid and Certificate of Mailing Affidavit of Service with return receipt requested, to the following / woman /man/ persons:

Addressed to the Following:

To: Chief Justice Janice Holder Tennessee Supreme Court et al 401 Seventh Avenue North Nashville, TN 37219-1407

by Certified Mail # 7009 0820 0002 1069 2923

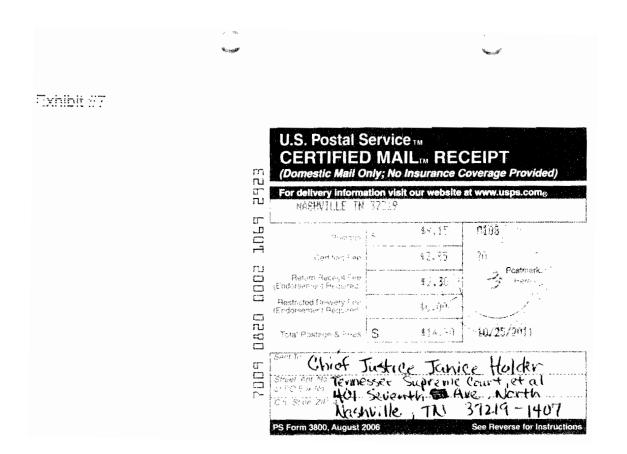
I have hereunto set my hand and seal of office on this 25th day of October, 2011.

Signature of Server: Set Se

Address of server:

Send All Responses to: Michael Lerman C/O Notary Acceptor 11037 Warner Ave., # 304 Fountain Valley, California 92708





Certified Mail Notice # 7009 0820 0002 1069 2930

Exhibit #8

Justice Honor Integrity



Presented under Seal: Official Business

From Michael Lerman C/O Office of the Republic Citizens' Ombudsman Warner Ave., # 304, Fountain Valley, California 92708

Nov 8, 2011

To: Chief Justice Janice Holder and Tennessee Supreme Court et al

Notice of protest re default / dishonor regarding
Notary presentment under seal of Ombudsman 11037
Letter / notice Re: Habeas Corpus
filed by MJ Blanchard into the Monroe County
Court Record regarding cause file # 11366
final 3 day Notice of Grace and demand to cure
Default//dishonor by ordering the immediate
and unconditional release of Walter
Fitzpatrick III and vacating cases # 11-018
and 10-213 and void all judgments against him,
Notice of liability of all respondent parties
if you fail to cure

NOTICE TO AGENT IS NOTICE TO PRINCIPAL AND NOTICE TO PRINCIPAL IS NOTICE TO AGENT

Dear Ms. Holder,

Over ten days ago a previously submitted Writ of Habeas Corpus and other associated follow-up documents under cause file # 11366 was presented under notary seal and the seal of the Ombudsman office to your office to address the highly irregular on it's face abuse of lawful process and abuse of due process protections in law against a prisoner named Lt Cdr. Walter Fitzpatrick III (U.S. Navy, Ret) and to secure his release from an unlawful incarceration. These documents, including the Habeas Corpus, which were sent to you and your office, have again been dishonored.

The Habeas Corpus, a lawful instrument to forensically inspect the cases and corpus dilecti against Mr. Fitzpatrick, was previously dishonored and unlawfully suppressed on four separate occasions constituting a willful and blatant denial of Lt. Cdr. Walter Fitzpatrick III's constitutional protections in law.

As the Chief Justice of the Tennessee Supreme Court, you are deemed to know the law and therefore knew that your responsibility to cure the dishonor was not discretionary but mandatory as required under law pursuant to your oath to hold your office.

1

Please see the following authorities:

Under the constitution of the United States, congress is the only power which can authorize the suspension of the privilege of the writ. [Cited in Ex parte Field, Case No. 4,761; McCall v. McDowell, Id. 8,673.]

EQUAL PROTECTION CLAUSE, FEDERAL DECISIONS BINDING ON THE LOWER COURTS, The Federal Courts are clearly against unequal treatment and this is binding on the lower courts. "The equal protection clause necessarily limits the authority of a State to draw legal lines as it chooses. This authority should make it clear that retaining at least equal protection and fair treatment is cognizable and substantial. Decisions of the Supreme Court regarding federal law and the Constitution are binding on the lower courts. There is no room in our system for departure from this principle, for it were otherwise, the law of the land would quickly lose its coherence. Hutto v. Davis, 454 U.S. 370, 375 (1982)

The very essence of civil liberty consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection..." MARBURY v MADISON, 5 US 137 (1803)

re: Standing/ Jurisdiction is also warranted under the "miscarriage of justice" exception. United States v. Young, 470 U.S. 1, 15 (1985); United States v. Frady, 456 U.S. 152, 163 n. 14 (1986); United States v. Olano, 507 U.S. 725, 736 (1993).

An indictment that does not charge an offense can be discharged by habeas corpus. Roberts v Hunter, 140 F2d 38; Brock v Hudspeth, 111 F2d 447; White v Levine, 40 F2d 502.

<u>Lack of a valid indictment is cause for release by habeas corpus</u>. Ex parte Bain, 121 US 1; Ex parte Wilson, 114 US 417.

Where no genuine issue of material fact exists and "the movant is clearly entitled to prevail as a matter of law." Deukmejian v. United States Postal Service, 734 F.2d 460, 462 (9th Cir.1984).

"State officers may be held personally liable for damages based upon actions taken in their official capacities." Hafer v. Melo, 502 U.S. 21 (1991).

A judge is liable for injury caused by a ministerial act; to have immunity the judge must be performing a judicial function. See, *Ex parte Virginia*, 100 U.S. 339, 25 L.Ed. 676; 2 Harper & James, The Law of Torts 1642—1643 (1956) The presence of malice and the intention to deprive a person of his civil rights is wholly incompatible with the judicial function. When a judge acts intentionally and knowingly to deprive a person of his constitutional rights he excises no discretion or individual judgment; he acts no longer as a judge, by as a 'minister' of his own prejudices...

In Whitmore, the Supreme Court noted that next friend standing "has long been an accepted basis for jurisdiction in certain circumstances," and has most often been invoked "on behalf of detained prisoners who are unable, usually because of inaccessibility, see 495 U.S. at 162, 110 S.Ct. 1717. to seek relief themselves." Court clarified that "[a] 'next friend' does not himself become a party to the habeas corpus action in which he participates, but simply pursues the cause on behalf of the detained person.

This notice of protest and a copy of the evidence of the dishonor of the Habeas Corpus enclosed is presented to you as a final attempt for you and the State of Tennessee et al to correct a felony wrong that

you and state officers are committing by not curing and bringing into compliance Tennessee officers who must comply with US Constitutional law, the supreme law of the land, pursuant to your oath and fidelity bonding by vacating the case against Lt. Cdr. Walter Fitzpatrick III immediately.

This office demands that you and those representing the state of Tennessee honor your/their oath(s) of office to the uS and Tennessee Constitutions, specifically where it says in art XI § 16 where it states that the Bill of Rights is declared inviolate - a lawfully binding contractual requirement with the people in order for you to lawfully hold office and receive any funds and compensations. Order the immediate release of Walter Fitzpatrick III and order officers of the State to cease and desist any actions to the contrary against Walter Fitzpatrick III.

It cannot be said you do not understand your lawful liability at this moment after this Notice under official seal pursuant to your oath and said duty. You are placed on notice of your personal and your state's et al. liability and responsibility at this point if you fail to release Walter Fitzpatrick III or if he is injured any further after this final notice of grace - a self executing document.

NOTICE of 18 U.S.C. § 4 Misprision of a felony and violations of the following 42 U.S.C.§1985, 42 U.S.C.§1986,18 U.S.C.§3,18 U.S.C.§ 1505, 18 U.S.C. §2,18 U.S.C. §1,18 U.S.C. § 1513,18 U.S.C. § 2382, 18 U.S.C.§1621,18 U.S.C.§ 1964(a) & (c) 18 U.S.C.§ 1968,18 U.S.C.§ 1341, 18 U.S.C.§1001,18 USC § 1346, USC 18 §242 U.S. Const. Art. III § 3 and others not yet named herein if Walter Fitzpatrick III is not ordered immediately released by your office, within three business days from the postmark of this notice,

Respectfully,

Madrif

Michael Lerman (U.S. Navy Veteran), all rights reserved Office of the Republic Citizens' Ombudsman,

Constitutional Oversight and Constitutional Violations Investigation Commission

CERTIFICATE OF ACKNOWLEDGMENT

State of California) County of Overgo)
on log log before me, Trang log Trang, personally appeared Michael Same in his/her/their authorized capacity (ies), and that by his/her/their signature (s) on the instrument the person (s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature (s) on the instrument the person (s), or the entity upon behalf of which the person (s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.
TRANG VAN TRAN COMM, #1941243 NOTARY PUBLIC - CALIFORNIA ORANGE COUNTY My Comm. Expires Jun. 17, 2015
Signature Signature of Notary Public Place Notary Seal Above

Notice of Notary CERTIFICATION OF NON-PERFORMANCE / DISHONOR / LIABILITY

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

PRESENTMENT Be it known, that, the person signing below, a duly empowered Notary Public, at the request of Michael Lerman in care of Republic Citizens' Ombudsman, 11037 Warner Ave #304 Fountain Valley California

Address

did duly present on October 25, 2011 the Habeas Corpus filed by M.J. Blanchard previously into Monroe County Court cause file # 11366, regarding cases # 11-018 and 10-213 Notice of non response and dishonor of respondents to demand to cure default/dishonor, notice of entry of default judgment for dishonor by respondents, Ombudsman letter to present these documents under seal to cure default, and notice of notary presentment of these documents to respondent(s) Chief Justice Janice Holder and the Tennessee Supreme Court et al to cure the condition of default / dishonor by either unconditionally releasing Lt. Cdr. Ret. Walter Fitzpatrict III and or presenting a sworn affidavit of their claims and explaining why they feel they don't have and to complete this transaction as such within ten days to settle and close cases # 11-018 and 10-213 and did duly present them through certified mail # 7009 0820 0002 1069 2923 with return receipt on

date: October 25 2011 to Chief Justice Janice Holder Tennessee Supreme Court et al Respondent(s)

signed by Michael Lerman requesting settlement and closure of cause #11366 and to vacate cases #11-018 and 10-213 for lawful cause within the time limit 10 days having elapsed for acceptance thereof and providing clarification of settlement and closure, which was refused/dishonored.

PROTEST Whereupon, the Notary Public signing below, for the reason **dishonor by non-performance**, does publicly and solemnly certify the dishonor as against all parties it may concern for liability hereafter incurred, by reason of nonperformance thereof and **stipulations therein**.

NOTICE The undersigned Notary Public, certifies that on November 8, 2011 Notice of Notary CERTIFICATION OF NON-PERFORMANCE / DISHONOR / LIABILITY /under notary protest was sent to the parties noted below by depositing in a depository of the United States Postal Service within the State indicated herein a sealed envelope containing said Notices(s) directed to the respective person(s) or entity(ies) at the last known corresponding address noted below:

NAME ADDRESS

Chief Justice <u>Janice Holder</u>
Tennessee Supreme Court et al
401 Seventh Avenue North
Nashville, TN 37219-1407
by Certified Mail # 7009 0820 0002 1069 2930

TESTIMONY In testimony of the above, I have signed my name and attached my official seal

Notary Public
My commission expires: June 17, 2015
Date [18 261]



The above-noted parties were presented notice(s) under notary seal that certification of non-performance within ten (10) days of postmark would comprise their acceptance of the above-indicated liability, the time having elapsed for performance thereof, which was refused.

CERTIFICATION OF DUE PRESENTMENT OF NOTICE UNDER NOTARY SEAL

Exhibit #10

Certified Mail # 7009 0820 0002 1069 2930 Certificate of Mailing Affidavit of Service

California State } The following text
is affirmed and subscribed to

Orange County } in this de jure venue; to wit:

On the date of Nov 8, 2011, the undersigned caused to be mailed a true, correct and complete copy of the following documents:

- 1. Certified Mail Notice # 7009 0820 0002 1069 2930 from Michael Lerman, a document titled, Notice of protest re default / dishonor regarding Notary presentment under seal of Ombudsman Letter / notice Re: Habeas Corpus filed by MJ Blanchard into the Monroe County Court Record regarding cause file # 11366 final 3 day Notice of Grace and demand to cure Default//dishonor by ordering the immediate and unconditional release of Walter Fitzpatrick III and vacate cases # 11-018 and 10-213 and Nov 7, 2011 void all judgments against him, Notice of liability of all respondent parties if you fail to cure
- Certified mail document # 7009 0820 0002 1069 2930 named notice of notary CERTIFICATION OF NON- PERFORMANCE / DISHONOR / LIABILITY re presentment of certified mail #7009 0820 0002 1069 2923

To be placed into an individually addressed envelope to the following persons and personally caused the envelope to be mailed by copies of the above listed documents via Certified Mail # 7009 0820 0002 1069 2930 with postage prepaid and Certificate of Mailing Affidavit of Service with return receipt requested, to the following / woman /man/ persons:

Addressed to the Following:

To: Chief Justice Janice Holder
Tennessee Supreme Court et al
401 Seventh Avenue North
Nashville, TN 37219-1407
by Certified Mail # 7009 0820 0002 1069 2930

Send All Responses to:
Michael Lerman
C/O Notary Acceptor
11037 Warner Ave., # 304
Fountain Valley, California 92708

CC. Admiral Jonathan Greenert and General James F. Amos C/O Colonel Nicholas F. Marano

I have hereunto set my hand and seal of office on this 8th _ day of November, 2011.

Signature of Server:

Seal

Address of server:

CXHIBIT#11

	ħ
or on the front if space permits.	□ No
1. Article Addressed to: If YES, enter delivery address below:	
Tennessie Supreme Guaterne 40 Seventh Avenorth NASh VILLE Tenn. 37219 - 1407 1407 18estricted Delivery? (Extra Fee)	
2. Article Number (Transfer from service label, 7009 0820 0002 1069 2930	
PS Form 3811, February 2004 Domestic Return Receipt 1025	595-02-M-1540

Affidavit of M. J. Blanchard:

The following information was taken from notes entered on an ACLU supermax check list and a recording made immediately after an interview was conducted of Walter Fitzpatrick III on October 30, 2011 at ~ 0900 hours. The interview took place during visiting hours at the Monroe County Jail in Madisonville, Tennessee.

The full ACLU check list may be seen at this link: http://www.aclu.org/files/pdfs/prison/checklist for visit to supermax.pdf

Exhibit #12

My name is M. J. "Zeb" Blanchard. I swear to the accuracy and truthfulness of my statements.

Walt has been incarcerated in Cell 9 and 10 in the Monroe County jail since September 23, 2011 except for brief periods when he was transferred to Blount County for testimony in federal court and those times when the cells were used for unruly prisoners, which is what the cells were designed for. Neither cell has windows or water. Water is supplied in gallon jugs each day for drinking and bathing. There is a toilet but no privacy for its use and it is flushed remotely by a guard. Sensory deprivation is prevalent in that there is no sensation of day or night or changes in the weather other than when it rains. Rain water comes through the wall of Cell 9 and floods the floor. Lights are on 24 hours a day. Cell 10 is used for punishment as it seems to be in line with the HVAC return air system which creates an intense draft through the cell. Prisoners are stripped to their skivvies and left in this cell for extended periods of time. The jail is kept in the 60's in the winter so Cell 10 has a wind chill factor, which would precipitate hypothermia. Walt has been in Cell 10 and reports that the return air blower db level is similar to below decks berths aboard ship where the seamen have to be issued ear protection to sleep. Long term noise exposure also leads to hearing loss and high levels of stress. High levels of stress can also lead to periodontal disease (De Marco Periodontal Emotional Stress Syndrome J Periodontal 1976; 47: 67-68)

According to Grassian (Journal of Law & Policy Vol. 22-325 2006) this type of confinement can result in irreversible psychiatric effects. When I visited Walt before he was transferred to Blount County he had been solo in Cell 9 for about three weeks. It was difficult during that visit to keep him focused on the business we had to conduct. He was fixated on the fact that the Monroe County grand jury foreman had been serving for 27 years. It was an inconvenience to have to keep bringing him back to the legal work that we were discussing.

Communication through the jail is somewhat bizarre. Prisoners are given one pencil and pad, one stamp and one envelope each week to use for correspondence. Prisoners chew the wood off the pencils when the lead wears down! Prisoners are allowed use of a telephone during a one hour per day visit to the dayroom, when the dayroom is not used for overflow. Cell 9 and 10 inmates are not allowed access to the dayroom except when their cells are used for unruly prisoners. Some first class mail is received and some books are received when they are shipped direct from the distributor. No wall decorations are allowed. Communication with other prisoners is not possible from Cell 9 or 10.

A prisoner's health is not monitored at any time. If a prisoner becomes ill he must waive at the surveillance camera or kick the door to summon a guard. Medical care is then provided by a nurse and charged to the prisoner's account, if he/she has one. Mental health is not monitored. From Walt's description of the food, it would appear to be a nearly total processed food diet, deplete of fresh fruits and vegetables. This is generally a high calorie diet but Walt had information that the diet was in the 2000 Kcal range so probably has small portion size since processed foods

are generally high calorie. A diet of this nature for even a short period of no more than six months can lead to ill health and disease. Anecdotal evidence has shown that disease is rampant in this facility. Furthermore this level of caloric intake would not be sufficient to maintain proper body temperatures in the reduced temperature settings of this jail which seems to substantiate the reported poor health of this general prison population. Walt reported today that his temporary roommate was taken out in hand cuffs and inoculated with tuberculosis toxin as a test to see if he had TB. This would make sense as it has also been reported that the HVAC duct work has live black mold. Diseases of all sorts can incubate in this medium and be distributed to the general population through the environmental control system. Extending this line of speculation could also lead one to assume, from the age and lack of maintenance, of this facility that it does not have water curtain scrubbers to avoid distribution of live bacteria.

A further note on health issues in the jail is appropriate here. Walt reported that the DWV system that runs exposed, in the overhead of the dayroom, is still leaking raw sewage onto the floor, where they sleep. They identify the effluent as sewage by the odor. This situation could probably account for the high rate of dysentery amongst the prisoners.

The script in the ACLU questionnaire asks how long a prisoner is held in these conditions. In Walt's case it is for the duration of his sentence. There are no "rules" in the Monroe County jail. What you get (sentence) is what you serve and the sheriff determines where you serve it.

It would be appropriate to understand why Walt is serving six months in what must be called a pseudo-supermax cell. There is very little difference in Cell 9 and 10 and solitary confinement. Walt was placed in Cell 9 soon after he was sentenced and has been there since September 23rd of this year except for brief periods, and will be there until his sentence is served. He is told that he is there for his own protection, based on precedence from his previous incarceration last winter. Walt was assaulted last winter by another inmate. It turned out that this inmate receives special favors from the guards and was put up to it by the guards. Historically, and in Walt's case specifically, this type of incarceration is done in retaliation for perceived transgressions against the Monroe County "judiciary system". He is also there to keep him away from the other prisoners who he assists with legal issues. Walt also left the prison last December with extensive first person accounts of the corruption in the prison system and the Monroe County jurisprudence system in general. These accounts were taken from interviews he did when he was allowed in the general prison population, at that time.

Amendment VIII to our U. S. Constitution stipulates that: "...cruel and unusual punishments..." shall not be inflicted. I say by my interview with Walt and testimony from that interview in this letter that Walt is receiving cruel and unusual punishment in violation of his 8th Amendment rights. I also offer that this is truly bizarre behavior on the part of the Monroe County jail in the 21st century. What goes on there is more like gulags of centuries ago.

M. J. Blanchard 897 Wilmar Circle Blairsville, GA 30512

706-745-7201

ref: acluscript103011

Exhibit #13



UNITED STATES NAVAL ACADEMY

Tuesday, 17 March 2009

To: Mr. Barack Hussein Obama

Via: U.S. Attorney Russell Dedrick, and Assistant U.S. Attorney Edward. Schmitzer, Eastern District. Temperates.

From Walter Francis Fatzpatrick, III. United States Navy Retired

Distribution: Wide

SUBJECT: CRIMINAL ALLEGATION REGARDING THE COMMISSION OF TREASON

I have observed and extensively recorded treacherous attacks by militarypolitical austocrats against the United States Constitution for twenty years

Now, in yet another betrayal, you have broken in and entered the White House by force of contrivance, concentium, concent, dissembling, and deceit. Posing as an imposter president and commander in chief, you have strapped crishin command and control over the military establishment Known military criminal actors — command racketeers — are now free in the energies of military government intent upon destruction of America's constitutional government.

Free from constitutional restraint, and following your criminal example, military commanders deployed U S. Army active duty combat troops into the small criminal community of Samoon. Alabama last week in a demonstration of their newly received despote, domestic police power

We come now to this reckoning. I necuse you and your military-pointed criminal assistants of TREASON. I make you and your military criminal.



UNITED STATES NAVAL ACADEMY

Monday, 12 October 2009

Special Agent Richard L. Lambert, Jr.:

I was materially obstructed twice in my efforts to testify before the Monroe County Grand Jury. Judge J. Reed Dixon declaratively stated the obstruction and allied criminal conduct are "all federal" crimes falling under your law enforcement jurisdiction. Judge Dixon's declaration is in keeping with every county official and Tennessee State law enforcement officer I've approached.

The purpose of the obstruction was to block me—once again—from visiting criminal accountability upon a very long and growing list of government officials. It is particularly meaningful on this date that I call your attention to the forgery of my name.

I focus your direct attention on my 17 March 2009 federal criminal complaint naming SOETORO-OBAMA in his TREASON!

I renew and extend all criminal complaints I've advanced to date. U.S. Attorney James Russell Attorney Dedrick is you point of contact.

I have not forgotten! I do not forgive! The government's criminal business must be arrested. SOETORO-OBAMA is a FOREIGN BORN DOMESTIC ENEMY. OBEDIENT TO MY OATH TO THE CONSTITUTION THIS MAKES SOETORO MY SWORN ENEMY!

You took the same oath I did!

"Beware the Fury of a Patient Man,"

Walter Francis Fitzpatrick, III

Enclosed: My sworn statement and document package of 8 October 2009.

Tuesday, 6 September 2011

Exhibit #15

From: Walter Francis Fitzpatrick, III, United States Navy Retired

To:

- The two Federal Grand Juries sitting in Knoxville, Tennessee
 Via: U.S Attorney William C. Killian, Eastern District of Tennessee
- Richard L. Lambert, Jr., Federal Bureau of Investigation Special Agent-in-charge, Knoxville, Tennessee Division

SUBJECT: CRIMINAL ALLEGATIONS NAMING BARACK HUSSIEN OBAMA IN COMMISSION OF TREASON

Confident holding Barack Hussein OBAMA'S silent agreement and admission I declare Mr. Barack Hussein OBAMA a Foreign-born Domestic Enemy in commission of TREASON!

In commission of TREASON OBAMA is engaged in purchasing and supplying guns, ammunition and additional high-powered heavy weapons, munitions and explosives to Mexican based and U.S. based foreign aggressors invading America. OBAMA actively aids and abets the self-described and internationally recognized enemy invasion force.

As an Act of TREASON OBAMA operates as a principal minister to a foreign government organ discovered existing in the United Nations constitution (or charter).

As an Act of TREASON OBAMA provides sanctuary and safe-haven to America's enemies intent upon the destruction of the United States Constitution as our form of Republican government and upon the destruction of the United States of America as a Sovereign nation.

In an Act of TREASON OBAMA encourages, facilitates and arms enemy to carry out a War on the United States of America from enemy bases set up in the homeland. OBAMA aids and abets these known enemy forces to establish and strike from enemy strongholds OBAMA allows established on American soil.

In committing TRESON OBAMA poses as an impostor president and commander in chief. Mr. OBAMA is an infiltrator and a spy.

As an Act of TREASON OBAMA broke in and entered the White House by force of contrivance, concealment, conceit, dissembling, and deceit. Posing as an impostor president and commander in chief you have stripped civilian command and control over the military establishment. Known military

criminal actors—command racketeers—are now free in the exercise of an extra-military government intent upon destruction of America's constitutional government.

As a Foreign-born Domestic Enemy, infiltrator and spy Mr. OBAMA installed and operates a government that is rival to and competing with our United States Constitution. Mr. OBAMA operates a government not found in our United States Constitution. This is identified as TREASON in pure form.

We come now to this reckoning as I repeat: I accuse Barack Hussein OBAMA and OBAMA's military-political criminal assistants of TREASON. I name OBAMA and OBAMA's political-military criminal associates as traitors. OBAMA's criminal ascension manifests a clear and present danger. Mr. OBAMA changed our form of government. Under infiltrator and spy OBAMA the Constitution is burned and replaced.

It needs be said out loud and relentlessly: OBAMA is not just aiding and abetting the invasion force based in Mexico and operating from bases in the United States, OBAMA is one of the organizers and commanders of this invasion force.

My sworn duty is to stand against what Mr. OBAMA stands for. The Foreignborn Domestic Enemy OBAMA is not my president, OBAMA is not my commander-in-chief.

Obedient to the United States Constitution in submission of this criminal accusation I remain steadfast, and,

Born fighting,

Walter Stancis Stantisch. III

UNITED STATE NAME, RETTRED

Sworn and issued before me

figur fall White this day of July 2011

Action P. M.

My commission expires: 62314

Exhibit #16

IN THE CRIMINAL COURT OF MONROE COUNTY AT MADISONVILLE, TENNESSEE

In Re: MONROE County

Grand Jury

ORDER OF INSTRUCTION

The Grand Jury of MONROE County, Tennessee, is hereby instructed that it has no jurisdiction to consider any case in which allegations of federal crimes are alleged to have occurred.

The said Grand Jury is further instructed that treason is a federal issue pursuant to Article 3, Section 3, of the United States Constitution, and, as such, jurisdiction resides solely in the courts with federal jurisdiction.

18 USCS § 3231 specifically states that "The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.

It is hereby Ordered that the Grand Jury of MONROE County, Tennessee, shall consider no cases pertaining to federal issues, and specifically said grand jury shall not consider any case in which allegations of treason against the United States of America have been made.

If there is any question as to whether any case involves federal issues, the Monroe County Grand Jury should direct an inquiry to their legal representative from the Office of the District Attorney General of the 10th Judicial District.

Any person wishing to come before the MONROE County Grand Jury on a federal issue, including treason, should be referred to the appropriate federal authorities in the U.S. District Court in Knoxville, Tennessee.

Enter this the $_/$ Day of $_$

e FILED

____AM / PM

APR 0 1 2010

MARTHA M. COOK CIRCUIT-COURT CLERK

CARROLL L. ROSS Circuit Court Judge

CHARGE TO THE MONROE COUNTY GRAND JURY Tuesday, 1 December 2009

"[W]hen [the law] has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own proper purpose. The law has been used to destroy its own objective. It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense.

Frédéric Bastiat (1850)

"...my 9 yr. old daughter and I said the rosary tonight for you.

Good luck with the Tennessee Grand Jury..."

Julie Tobin (last night)

MY EXPERIENCE IS AS THE TARGET OF AN EXTRAORDINARY GOVERNMENT CRIMINAL ADVENTURE RUNNING INTO ITS TWENTY-FIRST YEAR. I AM MY FATHER'S SON. IT IS THE RAPE OF OUR NAMES THAT BRING US TOGETHER IN THIS ROOM.

I APPEAR TODAY THE RESULT OF FEDERAL INTERVENTION RESUTLITNG FROM CRIMINAL CHARGES IDENTIFYING FIVE FORMER MEMBER OF THIS MONROE COUNTY GRAND JURY FOR OBSTRUCTION OF JUSTICE. THEIR CRIMES ARE PROVEN.

JAMES STUTTS AND GARY PETTWAY HAVE TWICE BLOCKED ME FROM REPORTING BEFORE THIS GRAND JURY.

STUTTS AND PETTWAY AGGRESSIVELY ATTEMPTED TO STOP ME FROM REPORTING ON GOVERNMENT OPPRESSION AND TYRANNY. STUTTS AND PETTWAY KNOW WHAT PROSECUTION OF THESE PROVEN CRIMES REPRESENT. BOTH MEN ARE DESERVING OF PUNISMENT AS AGGRESSIVE AND SEVERE AS THEIR OBSTRUCTION.

YOUR TASK IS TO TURN OVER TO A CRIMINAL TRIAL JURY EVERY REPORT OF GOVERNMENT TYRANY AND OPPRESSION.

THE BURDEN IS SHIFTED! THESE MATTERS ARE NOW IN YOUR HANDS. THE HANDS OF "WE THE PEOPLE."

TREASON IS:

- Constructive levying of war based on forcible resistance to the execution of constitutional statutes with intent to set up a rival government (For instance: Whiskey Rebellion cases, New York Draft Riot cases, John Brown (VA.), Thomas Wilson Dorr (RI.), Joseph Smith (IL. MO.)).
- OBAMA'S war on the Constitutional represents an open rebellion that truly constitutes a genuine national emergency: a constitutional emergency. Crimes are hourly committed against the Constitution with intent to destroy our form of government.
- The levy of war against any state is the levy of war against the United States.
- OBAMA IS A CONFESSED CRIMINAL! OBAMA is in the White
 House forty-nine days when military troops actively "pervaded
 the activities of civilian law enforcement officials." OBAMA
 "subjected [American citizens] to the exercise of military
 power that was regulatory, proscriptive and compulsory in
 nature." Military personnel forcibly restricted "the freedom of
 movement of civilian persons" (just as in the case of Staff
 Sergeant Girouard).
- Senior military commanders—COMMAND CRIMINALS--are no more obedient to the Constitution than is OBAMA! (William Winthrop for instance)

CONFIRMED. CONFESSED. (Unites States Secret Service, Federal Bureau of Investigation, Defense Department).

TREASON

- Decapitation of civilian commander in chief. OBAMA is a threat to national security.
- OBAMA IS A FOREIGN BORN DOMESTIC ENEMY! AN INFILTRATOR! The man is unable to pass routine security background check.
- OBAMA'S orders are unlawful!

TREASON

- Documented Elections Tennessee elections fraud. Ran for president and commander in chief claiming to be eligible knowing he was not eligible as a result of his failure to establish his United States Citizenship and by maintaining multi citizenships with Kenya and Indonesia.
- Illicit certification. OBAMA infiltrated the Tennessee ballot

COMMAND CRIMINALS (ATTAINDER COURTS-MARTIAL)

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~~~~

IF GOVERNMENT DOESN'T OBEY THE CONSTITUTION ... WHAT'S TREASON?

THIS MONROE COUNTY GRAND JURY MUST...

- RECLAIM THE POWER THAT RIGHTFULLY BELONGS TO AMERICA'S GRAND JURIES!
- Begin the process of OBAMA'S criminal investigation and accountability. OBAMA is an admitted criminal. OBAMA'S criminal conduct must be relentlessly scrutinized beginning here, beginning now.
- Begin the process that reestablishes the power of America's Grand Jury to visit criminal consequences upon those who are criminally active in subjugating their oppression and tyranny upon American Citizens. Citizen Jury's ensure Liberty prevails.

- Begin the process of ending to attainder courts-martial.
 Introduce and institute Grand Jury and Trial Jury jurisdiction and civilian oversight into military government. Jury oversight affords the protection U.S. Servicemen must enjoy to say "NO!" to unlawful orders.
- Turn over to civilian criminal trial juries evidence going to two
 attainder courts-martial of Monroe County residents.
 Regarding the attainder court-martial of Army Staff Sergeant,
 RANGER Raymond Lee Girouard the Monroe County Grand
 Jury must task the trial jury with scrupulous examination of
 attorney Anita Gorecki's theft of approximately thirtythousand dollars from local residents.
- Command Racketeers, military governors have given themselves permission to ignore the Constitution. The Monroe County Grand Jury must begin the process of stopping and punishing these military aristocrats for their breathtaking criminal trespasses upon the Constitution. Command Racketeers must be by held to server criminal accountability under the Constitution.
- Actions of the Monroe County Grand Jury give license to other
 of our Nation's Grand Juries to reverse government actions
 allowing for terrorists, not protected by the Constitution, to be
 tried as ordinary criminals in a civilian Federal Court. A
 Federal Grand Jury can order terrorists returned to military
 custody.
- Correct action by the Monroe County Grand Jury enables
 Federal Grand Juries to contemporaneously order cases
 against servicemen such as those contemplated for our Navy
 SEALS be brought into Federal Courts where real Juries and
 real Judges reside. That is to say to bring American servicemen
 under the protection of the Constitution that does cover them.
- Turn over to a criminal trial jury the proven criminal adventures of the formerly constituted Monroe County Grand Jury. The newly formed Grand Jury must carefully consider and self-evaluate how it is to conduct itself in future days.

OBAMA IS GUILTY OF TREASON. HE IS A FOREIGN BORN DOMESTIC ENEMY; AN INFILTRATOR: A CLEAR AND PRESENT DANGER.

OBAMA REPRESENTS AN EXCEPTION THREAT TO NATIONAL SECURITY. OBAMA IS MY SWORN ENEMEY.

YOUR DUTY IS CLEAR. OUR GOVERNMENT HAS CEASED TO FUNCTION. THE FUTURE OF OUR CHILDREN AND OF THIS NATION IS IN YOUR HANDS.

The Monroe County Grand Jury represents the last peaceful opportunity for America to begin the process of getting back to the United States Constitution. American's everywhere are watching closely. Conduct yourselves accordingly.

> **OUR CONSTITUTION IS NOT NEGOTIABLE** NOT ONE SINGL PART! **NOT EVER!** I WILL NEVER BACK DOWN! I WILL NEVER SURRENDER!

> "BEWARE THE FURY OF A PATIENT MAN!"

Obedient to my oath to the Constitution, I remain...

Born Fighting, may God have His hand on us all,

Walter Francis Fitzpatrick, III
United States Navy Retired
UNITED STATES NAVAL ACADEMY CLASS OF 1975

Exhibit #18

TENNESSEE COURT OF THE JUDICIARY

J. S. (Steve) Daniel, Disciplinary Counsel 503 North Maple Street Murfreesboro, Tennessee 37130 (615) 898-8004

COMPLAINT AGAINST JUDGE UNDER CODE OF JUDICIAL CONDUCT

Your N	ame	e:	Walter	Fran	cis	Fitzpatı	rick, III							
Addres	c.	504 May Street (please type or print) Sweetwater, Tennessee												
Audres	5.													
		37874-2714												
Phone:	Daytime (413.351. 9677								EMAIL: JACHUNTER L. G. CARBLL L.					
	•	<u> Po</u> :	<u>55 (</u>	AU	<u>Y_</u>	AZMS'	nisconduct	<u>-L</u>	5 17 (na	ame of ju	idge (or acting j	udge) of the (city),	
		_	ZIMIN Ma	URC	Z			(county), To	ennessee).		(City),	
			T	υ. φ		<u>STA</u>	TEMENT attach addition	OF l	FACTS s if necessary)					
1.	Wh Dat	en a te(s)	and wher	e did	this	happen?	SEE Time	: : :-	AGE	Location	RE2 on:	<u> </u>		
2.		Wh	at is the	name	and		court case, post the case?		e answer th	ese ques				
	b)	Wh	at kind o crimina	of case l	is i	it? domestic	relations		general se					
	c)	0	plaintifi	f/petit	ione		case?		defendant					
	d)	If you	other (s ou were i ne(s):	pecify repres	r): _ ente	d by an atte		this m	natter at that	t time, ple	ease ic	lentify the	attorney(s):	
		Pho	one: (1			**							
	e)	Ide Nai	ntify any ne of att	orney	:		ho represe							
			one: (Represen	ted:						

	ESE MALE THORY A IN BUILDING
	DEL PRIGE THREE AND ENCESSIVES
	Identify, if you can, any other witnesses to the conduct of the judge or acting judge:
	Name(s):
	Address(es): SEE PAGE THREE AND ENCLOSURES
	Phone: ()()
	Specify halow the details of what the judge or acting judge did that you think constitutes missendust
	Specify below the details of what the judge or acting judge did that you think constitutes misconduct or indicates disability. (Please type or print legibly; attach additional pages if necessary.)
	of materials disability. (Flease type of print legiory, attach additional pages if necessary.)
	Oce Oliver 1 Classes
	SEE CAGE THREE AND ENCLOSURES
	-
	I UNDERSTAND THAT STATE LAW PROVIDES THAT THE COURT OF THE JUDICIARY'S PROCEEDINGS ON
	EQUEST FOR INVESTIGATION ARE CONFIDENTIAL PRIOR TO THE FILING OF ANY FORMAL CHARGES BY
SCIE	LINARY COUNSEL. Under penalty of perjury, I swear or affirm that these statements and information
NT A	INED IN ANY ATTACHED DOCUMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND CONSTITUTE ALL
	COMPLAINTS AS OF THIS DATE AGAINS? THE ABOVE-NAMED JUDGE OR ACTING JUDGE.
141 1	1 0+2 21- 1-10
NA	TURE: Wally Maris Waratruk, III DATE: 17 FEBRUALY 2
	1417 409
ATE	of Tennessee
UN'	TY OF MONROF
OR	N TO AND SUBSCRIBED 17 day of February VAA, 2010.
tary	Public: Samure Evander was
•	
•	ommission Expires: 2-22-/2 /3/
•	ommission Expires: 2-22-12 (3/ SAE)

The gravamen of this criminal complaint is that Tennessee State Court judges are handpicking jurors to the Grand Juries across the State of Tennessee.

The criminal practices of these Tennessee judges are measured in decades.

Circuit Court Judge Carroll L. Ross' selection and appointment of Mr. Gary D. Pettway as Foreman of the Monroe County Grand Jury for Pettway's twenty-seventh consecutive year as Grand Jury Foreman was first the first discovery made on Wednesday, 6 January 2010.

Circuit Court Judge Amy Armstrong Reedy is also specifically named and identified here with Ross as another judge engaged in the monopoly and mystery of appointing Tennessee State Grand Jury members.

Events leading to the identification of Ross and Reedy as criminals are described in criminal complaints enclosed. A separate time line is enclosed.

Follow-on inquiries lead to accusations against the larger population of Tennessee judges influencing and infecting Grand Juries statewide. A report already sent to your Disciplinary Counsel and his assistant is also available electronically here with companion time line links: http://thejaghunter.wordpress.com/2010/02/14/u-s-grand-jury-report/

Investigation into these mattes continues to present day.

Criminal acts reported here are not parts of any court case. They are the substance of separate, extensive and relentless criminal complaints.

Sworn criminal complaints are filed with the Federal Bureau of Investigation (Knoxville Division), the Tennessee Bureau of Investigation (Chattanooga office), the Madisonville Police Department. Sweetwater police, the McMinn County and Monroe County Sheriff's offices refused to accept the criminal complaints. Tennessee State Attorney Cooper refused to accept the criminal complaint. Not any of these agencies claim jurisdiction to act on the criminal complaints.

Further, Tennessee Governor Bredesen and Lt. Governor Ramsey are informed. Each of the five sitting judges on the Tennessee State Supreme Court is informed. Every member of Tennessee's 106th legislature is informed. Various court clerks are informed.

A copy of the 4 February 2010 Monroe County Advocate & Democrat is enclosed (see page 12). All concerned ignored the public announcement regarding the criminality of the extant group of people presumed and posing as a Grand Jury and carried on business as usual (Eric Pedersen was falsely "indicted" by the pretend Grand Jury for aggravated vehicular homicide).

CLERK OF THE CRIMINAL, CIRCUIT AND SESSIONS, JUVENILE COURTS

105 College Street Suite 3 Monroe County Courthouse Madisonville, Tennessee 37354 Circuit (423) 442-2396 Criminal (423) 442-5936 Sessions (423) 442-9537 Juvenile (423) 442-5631 Fax (423) 442-9538

January 21, 2010

Mr. Donald A McDougall

Re: Request for Information

Dear Sir:

Concerning your letter of January 14, 2010, I have attached and also attempted to answer your request for information.

 Process selection of Grand Jury/ I have attached copies of TCA 22-2-101 which describes the procedure. As to who is involved, I serve as jury coordinator and also a deputy clerk in my office assist me.

Two Grand Juries are impaneled in December and serve for a period of 1 year. They rotate months for appearing. Example: Panel 1 report in Jan. Panel 2 Feb. Panel 1 March, etc

- 2. Mr. Pettiway has served as Grand Jury Foreman for appx 27 years.
- 3. Mr. Pettiway receives \$15.00 per day for his service.

I think I have answered all the questions you requested.

Sincerely,

Martha M Cook



WALTER FITZPATRICK

6th floor - TBI

Wednesday, June 9, 2010 10:19 AM

Visitor



KRISTINA / DEVISE

TBI

634-3044

GWEN 1024 REAH COUNTY 10250

SPECIAL AGENT WASHINGON REFUSED NIS CARD

WED 9 JUNE 2010 0527

TEND TEL CHATTANOGA STATE BULDING OFFICE SYD Mc CALLIE AYENE SUITE GSD 37402

413.634.3644

CHATTANOOGA

Parking Services - Dept. 4004 615 McCallie Avenue Chattancoga, TN 37403-2598 (423) 425-4051

PARKING VIOLATION NOTICE

CITATION: HH203341

VEHICLE INFORMATION LICENSE: IN 560KBG NA

MAKE: GEO STYLE: 40 COLOR: BLU

VIOLATION: No Parking Permit

FINE: \$20.00

DATE: 06/09/10 TIME: 10:20

LOCALION: 25 OFFICER: 952

Send check or money order payable to UTC or pay online at: www.utc.edu/Administration/ParkingServices

DO NOT SEND CASH

ENVESSE BUREAU OF INVESTIGATION (TBI)
SPECIAL AGENT WASHINGTON
1102 HOURS - 1118 HOURS
ON THE BAKK BUKENSH RAMP



ON DEMAND PUBLIC RECORDS REQUEST TO MADISONVILLE CHIEF OF POLICE GREGG BREEDEN

Public Records Request pursuant to events occurring on Thursday, 1 April 2010.

I deliver this request in person representing myself.

My request is on demand for immediate release of information and document production.

I request on demand copy of any attendant Madisonville Police Department record connected to the Madisonville Police Department's participation in the events of Thursday, 1 April 2010.

I request on demand a copy of any Madisonville Police Department record or narrative of any type or kind used to report on the events of Thursday, 1 April 2010.

I request on demand copies of any existing Madisonville Police Department records connected or related to in any way to the events of Thursday, 1 April 2010.

This request is made for existing records of any type or kind in whatever form or format they exist.

Walter Francis Fitzpatrick, M

United States Navy Retired REPRESENTING MYSELF

COPY

Thursday, 10 June 2010:

ON DEMAND PUBLIC RECORDS REQUEST TO MONROE COUNTY TENNESSEE SHERIFF BILL BIVENS

Public Records Request pursuant to events occurring on Thursday, 1 April 2010.

I deliver this request in person representing myself.

My request is on demand for immediate release of information and document production.

I request on demand copy of any attendant Monroe County Sheriff's Department record connected to the Sheriff's Department participation in the events of Thursday, 1 April 2010.

I request on demand a copy of any Sheriff's Department record or narrative of any type or kind used to report on the events of Thursday, 1 April 2010.

I request on demand copies of any existing Sheriff's Department records connected or related to in any way to the events of Thursday, 1 April 2010.

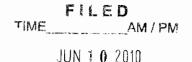
This request is made for existing records of any type or kind in whatever form or format they exist.

Walter Francis Fitzpatrick, III

REPRESENTING MYSELF

United States Navy Retired

Thursday, 10 June 2010:





ON DEMAND PUBLIC RECORDS REQUEST TO THE MONROE COUNTY TENNESSEE CIRCUIT COURT CLERK'S OFFICE

Public Records Request pursuant to Monroe County Deputy Clerk D. Moser's issuance of the CAPIAS and BOND dated 04 June 2010 regarding Case Number: 10213 declaring the state's allegation of "Retaliation for past action – TCA 39-16-510 (attached).

I deliver this request in person representing myself.

My request is on demand for immediate release of information and document production.

I request a copy of any attendant Police or Sheriff's or GRAND JURY report prepared in connection with the 04 June 2010 CAPIAS and BOND.

I request a copy of any narrative of any type or kind used to support the issuance of the CAPIAS and BOND.

I request copies of any existing records connected or related in any way to the issuance of the CAPIAS and BOND.

This request is made for existing records of any type or kind in whatever form or format they exist.

Walter Francis Fitzpatrick, H United States Navy Retired

REPRESENTING MYSELF

Thursday, 10 June 2010



ON DEMAND PUBLIC RECORDS REQUEST TO MONROE COUNTY CIRCUIT COURT CLERK MARTHA COOK FOR THE LIST OF PERSONS SUMMONED FOR JURY DUTY FOR CALENDAR YEAR 2009

Public Records request for production of documents recording the names of every person summoned for Jury duty from Monroe County for Jury duty in Monroe County during calendar year 2009—from 1 January 2009 and each day throughout to 31 December 2009 this to include the 1st of January 2009 and the 31st of December 2009.

I deliver this request in person representing myself.

Iter Trancis Outzsatzick in

My request is on demand for immediate release of information and document production.

This request is made for existing records of any type or kind in whatever form or format they exist.

JUN 11 2010

Walter Francis Fitzpatrick, III

United States Navy Retired

REPRESENTING MYSELF

TIME: 1201 HRS.

Exhibit #22

IN THE CRIMINAL COURT FOR MONROE COUNTY, AT MADISONVILLE, TENNESEE

STATE OF TENNESSEE,))
v.)) NO. 10-213)
WALTER FRANCIS FITZPATRICK, III))) // 07 2000

MOTION TO DISMISS

Defendant moves to dismiss the State's cause and drop all charges on the following grounds evidencing the State's premeditated malice prejudicial to the defendant. The State's cause is mortally injured because:

- Sessions Court Judge J. Reed Dixons threat of harm and intimidation uttered to defendant's counsel. Defense counsel prepared a written Motion to Recuse naming Reed Dixon as conflicted in Dixon's role as Sessions Court Judge sitting the bench during the probable cause hearing in defendant's case of 4 May 2010. Dixon threatened harm to the defendant's attorneys preventing them from filing the public Motion. J. Reed Dixon's demonstrated prejudice taken together with Dixon's outrageous criminal conduct shocks the conscience and are fatal.
- 2. Disqualification of Mr. Gary Pettway and Ms. Angela Davis as Jurors to the 2010 Monroe County Grand Jury. Pettway and Davis both served on Monroe County Jurors in 2009. Pettway's 2009 jury term ended on 31 December 2009. Davis's jury term ended on 30 June

2009. Tennessee State law (TCA 22-2-314 – Limitations on Jury service) prohibits Pettway from Jury duty on any Tennessee Jury until 1 January 2012. Ms. Davis is prohibited from serving on any Tennessee Jury until 1 July 2011. The work of the 2010 Monroe County Grand Jury is prejudicial, is condemned and is fatal.

- 3. Defendant has searched for an accuser and does not find one. No police or sheriff's records exist naming the defendant as accused. No genuine issue is present. The Court's inability and consequent refusal to name the defendant's accuser on demand during the 28 June 2010 Arraignment hearing is fatal.
- 4. Criminal Court Judge Carroll Ross' oral and written threat and attempted intimidation targeting the defendant. Ross' 28 June 2010 Order Setting Conditions of Bond commands and intends to prohibit defendant from participating in his own defense. Carroll Ross's demonstrated prejudice taken together with Ross' outrageous criminal conduct shocks the conscience and are fatal.

No lawful course of action is left to this Court but to drop all charges and grant this MOTION TO DIMISS.

Filed this the 7th Day of July, 2010

Walte Transis Stroatrick, II.

Exhibit #23



Walter Fitzpatrick III showing injuries to head and ear

fitzexhibit23

Exhibit #24

See Exhibit #19



Gary D. Pettway, acting as an individual Juror under color of his position as Monroe County Grand Jury Foremen, has materially obstructed me two times as a petitioner from submitting my application to appear before the full Monroe County Grand Jury.

The accused PETTWAY acted in cooperation with other criminal actors named in this 7 October 2009 document submission.

The first criminal exercises occurred on Thursday 3 September 2009 and 10 September 2009. Details are reported and described in my sworn statements of Friday, 4 September 2009 and Monday, 28 September 2009.

September's criminal adventures begat the second criminal episode occurring on Thursday, 1 October 2009 as described below.

PETTWAY, acting as an individual Juror under color of his position as Monroe County Grand Jury Foreman, is prohibited by law from unilaterally stopping, halting, obstructing, or coercing a petitioner in possession of truthful evidence and testimony from testifying before the full Grand Jury of thirteen.

PETTWAY when joined by selected jurors, are proscribed precisely in the same law, acting as an advisory group to the Grand Jury, from unilaterally stopping, halting, obstructing, or coercing a petitioner in possession of truthful evidence and testimony from testifying before the full Grand Jury of thirteen.

Madisonville Police Detective Jim Shaw (Badge #908) is first named below in commission of the same criminal offenses narrated in my sworn statement of 28 September 2009.

In addition to criminal activity already narrated I add that of Court Clerks Martha M. "Marty" Cook, and Darleen Moser in their administration of an affidavit/petition submission of 29 September 2009.

Criminal business reported today is not an all-inclusive or complete. I leave the work of a more comprehensive criminal investigation to duly sworn and obligated law enforcement agents.

"PETTWAY'S JURY"

DATE of the Criminal Episode: Thursday, 1 October 2009.

TIME: 0835 – 1420 hours (all times local - East Tennessee)

PLAYERS (in order of appearance):

- Don Roberts, (Civilian employee, Madisonville Police Department).
- *Gary D. Pettway, Monroe County Grand Jury Foreman.
- *Darleen Moser, Deputy Clerk, Monroe County Criminal Court.
- *Martha M. "Marty" Cook, Monroe County Circuit Court Clerk
- Reneé Ezell, Clerk to the Monroe County Grand Jury.
- Steve Sloan, Madisonville Police Officer (Badge #912)

- *Jim Shaw, Detective Sergeant, Madisonville Police Department (Badge #908).
- Danny Russell, Captain, Madisonville Police Department (Badge #902).
- *James H. Stutts, Assistant District Attorney General, Tennessee's
 10th Judicial District to include Monroe County.

* Indicates those accused in their criminal conduct in this,

NARRATIVE:

I arrived at the Madisonville Police Department at 0835 hours. Mr. Don Robert was sitting behind the reception desk. I repeated what I told Mr. Roberts on Tuesday, 29 September 2009 during our telephone conversation. I said to Mr. Roberts—again—I was going to the Monroe County Courthouse with my new petition to the Monroe County Grand Jury. I told Mr. Roberts I expected trouble, I expected to be confronted by Messrs. Pettway and Stutts. I announced—again—I would call Madisonville Police when these events played out.

Mr. Roberts said Detective Sergeant Jim Shaw was at the Courthouse to testify to the Grand Jury.

Detective Shaw received my criminal complaint against STUTTS and PETTWAY on 4 September 2009 (Madisonville Police Department case#: **09080908**).

Mr. Roberts gave me a copy of Detective Shaw's case report Roberts had ready for my arrival.

I gave Mr. Roberts a copy of the 57-page affidavit/petition to add to Shaw's case file. The same document package was filed with the Grand Jury Clerk on 28 September 2009.

Mr. Robert's said to me again as I walked out, "Jim should be over at the Courthouse." The time was 0841 hours.

I drove to the Courthouse, parked nearby, and walked to the building. I saw Mr. Pettway as I approached (0849 hours).

Pettway was standing to the right of the main entrance talking on a cell phone. Pettway turned his back when he first saw me, and then turned again and scurried into the Courthouse as I came closer.

I walked on to arrive at the reception counter in the Criminal Court Clerk's Office at 0850 hours.

Clerk Moser and a man were transacting a payment of some sort at the chest-high reception desk.

Payment made, the man left.

Clerk Moser and I were alone in the office.

I delivered five copies of the 57-page affidavit/petition to Moser. I told her they were to be read by each of the members of the Grand Jury review panel **BEFORE** I was called. I told Moser I wanted any unneeded copies back.

I walked out with my backpack and other hand-carried materials, turned right, descended the six steps to the mid-floor stairway landing, and sat down on the landing-width long wooden bench.

The same seat I taken on 3 September.

I was in plain view of anyone entering the Criminal Clerk's Office (Moser's office), or people entering or leaving the second floor elevator, or people using the stairs.

I meant myself to be seen.

ADA Stutts and Court Clerk Cook stepped out of the Criminal Clerk's Office and saw me, for instance, as I pulled out my cell-phone and ID card case to retrieve a phone number.

I called Madisonville Police at 0903 hours (423.442.2268)

Mr. Roberts answered.

I told Roberts that Stutts and Pettway were both in the Courthouse. I told Roberts (again) they would be committing a criminal act should either of the two me approach me for any reason. I told Roberts (again) I expected a completely avoidable confrontation.

Mr. Roberts said to me again that Detective Shaw was someplace in the Courthouse.

I hung up and was organizing my things on the wooden bench when I realized I still had the original of the affidavit/petition with me.

Stutts and Cook were gone. The time was 0907 hours.

I climbed up the stairs and turned left into Moser's office. Clerk Ezell was now in the office with Moser, both Clerk's sitting at their desks.

Moser got up to receive the original document. Moser said to me, "You do know we don't get to you until 11:00 o'clock." Gesturing to Clerk Ezell I answered, "I know," and continued "Ms. Ezell gave me the times some months ago."

I left, resumed my seat and started to read a book.

I paid very close attention to my surroundings, people and things.

Clerk Martha Cook saw me sitting on the bench at 0931 hours. She came down the stairs and said to me, "Are you okay today?" I told her I was fine and we briefly exchanged all the weather small talk needed for Cook to walk past me and down the next flight of stairs.

The mail was delivered at 0936 hours. A news reporter went upstairs at 0903 hours and left just past 1000 hours. Police officers of all sorts came and went. I can describe more (but don't) about the comings and goings of people as I sat on the wooden bench until 1304 hours.

After four hours, I saw Pettway a second time.

Pettway stepped out of Moser's office and called down to me, "Mr. Fitzpatrick, may we speak to you a moment."

I told Pettway, "Wait a minute, I'll be right up."

It was 1305 hours. Pettway wasn't supposed to be there.

Exhibit #26

I called Madisonville Police for of a police officer to come to the Courthouse (423.442.2268). Pettway had just committed a criminal act. Mr. Roberts took the call, told me I needed to call their direct line telephone number for dispatch, then offered to give me that number. "I've got it here," I said (423.442.4357). This took up two minutes time.

Appropriate and numerous notifications, alerts, and filings were in place by Thursday afternoon (1 October) stating that (1) I was going to appear at the 1 Oct. assembly of the Grand Jury advisory panel and (2) My purpose was to report Pettway and Stutts as criminals in their acts obstructing me on 3 September.

On Friday afternoon, 4 September 2009—a month earlier— Madisonville Police Detective Jim Shaw had received my separate signed complaint criminally accusing Stutts and Pettway (case #09080908).

Enough had been done to cause replacing Stutts and Pettway with two different people to run the 1 October Grand Jury advisory panel

With new people—strangers—I could have approached with my petition and statement unobstructed. I could have presented my evidence and voiced my testimony in full compliance with Tennessee State law as was publicly published in the Monroe County Courthouse.

Laconically Tennessee law regarding a Grand Jury is that **ANY** person in possession of credible proofs and evidences has access to report to the full Grand Jury **ANY** criminal act.

But instead of a stranger, it was Gary Pettway who beckoned, "Mr. Fitzpatrick, may we speak to you a moment."

I was in Moser's office for 35-minutes (1307 – 1342 hours).

Cook and Moser were sitting at the two office desks, Pettway was standing behind the right end of the reception counter.

The 35-minute episode is broken into two time periods.

Four people populate period 1: Myself, Pettway, Cook, Moser.

Seven people incrementally populated period 2 that are described as those moments when police officers were on scene.

PERIOD ONE (1307 – 1332 hours)

I entered Moser's office empty handed.

Pettway's opening gambit: "Mr. Fitzpatrick, you'll have to leave. The Grand Jury heard you case last month. You're not going in today. Please leave."

"You're wrong," I say. "You're the one who's not supposed to be here. You're a named criminal. You and Stutts are named in my statement I filed here Tuesday. I'm not leaving, and I've already called for a policeman!"

"Good," Pettway acknowledges.

Pettway's next gambit was to push to me a three-page document set for me to fill out. The first page is titled: "PETITION TO APPEAR BEORE THE GRAND JURY." At the top of page two it says: "AFFIDAVIT OF COMPLAINT FOR PETITION TO APPEAR BEFORE THE GRAND

JURY OF MONROE COUNTY." And the third page is described as a: "WAIVER OF IMUNITY."

Pettway and I argued for 25-minutes about (1) Pettway's commission of a crime by being present, and (2) The procedure required by Tennessee law for a person to apply to appear before the Monroe County Grand Jury.

The argument began in low, measured, adversarial tones. But it didn't take long for an out and out shouting exchange to erupt.

Cook and Moser said nothing.

Pettway refused to accept my 57-page petition/sworn statement.

Pettway ordered me to fill out another statement using only the first page of the three-page document group on the reception desk ("PETITION TO APPEAR BEFORE THE GRAND JURY").

I refused telling Pettway this was exactly the criminal act Pettway was named committing in my sworn petition/statement sitting on the desk behind Pettway.

Pettway refused to accept my 57-page petition/statement over and over. Important to point out is that the same statement was filed in the very office the four of us were standing in two days earlier, Tuesday, 29 September.

Pettway said to me repeatedly, "You're not going in there until you fill out that page." Pettway thumbed back towards the Courtroom where I'd appeared the month before.

I aggressively kept telling Pettway, growing ever more heated, "my statement is right there (pointing to the desk behind Pettway)." (Note: there was a **stack of copies** with the original)

Pettway said to me, "You're not going to play with MY Grand Jury."

Pettway repeated his version of the same sentiment several times the Grand Jury was PETTWAY'S GRAND JURY.

This goes on for 12-minutes.

Pettway finally allowed the use his first page as a cover-page for my 57-page submission.

I filled out the **PETITION TO APPEAR BEFORE THE GRAND JURY** by filling in, then signing my name underscoring my statement was "Attached."

The time is 1320 hours. Pettway is supremely angered he'd acquiesced.

I'm certain Pettway was as angry with me announcing Pettway an accused criminal whose presence before me only magnified his criminal conduct.

Now Pettway points to page two of Pettway's forms: **AFFIDAVIT OF COMPLAINT FOR PETITION TO APPEAR BEFORE THE GRAND JURY OF MONROE COUNTY.**

Pettway and I go at it again.

Different piece of paper...same argument.

"Have you even read that!?" I roar pointing to my work-product on the desk.

"You're an educated man," Pettway says to me. "I'm not going to let you play with the system!"

I growled back to Pettway, "Be clear on this Mr. Pettway, I'm not playing!

Are you an educated man? Have you read that? You're named in that statement as a criminal. You're not supposed to be here. And nothing of this process of yours is found in Tennessee law! Not these forms, not these formats. **NOTHING!**"

Pettway shoots back, "I'm educated enough to know how to run MY GRAIND JURY! YOU'RE NOT GOING IN THERE UNTIL YOU FILL OUT THAT PIECE OF PAPER!"

I yelled at Pettway, "**READ THAT!**" (pointing to my 57 page petition/affidavit)

Finally Pettway picks up a copy of my statement, reads and flips pages back, huffing and puffing.

As Pettway carries on, I pull his page two closer, and write MY STATEMENT IS ATTACHED!"

The time is 1324 hours.

Pettway goes ballistic!

"You have to list the crimes!" Pettway says.

"Gimme that," reaching for and taking my statement out of Pettway's hands.

I turn to page 9 and read the paragraph leading into the itemized narration of specific criminal acts naming Pettway and Stutts and others.

Then I rapidly read the first emboldened sentence of each of the five criminal charges specifically listed bullet-point format in MY ALREADY WRITTEN, TYPED, SIGNED, SWORN AND NOTARIZED STATEMENT!

I remember this vividly.

I'm on page 12, I throw my writing on the counter, and looking at Pettway in the eye, say, "YOU MEAN LIST THE CRIMES LIKE THAT?"

Pettway flares up, throws his arm high up in the air and back behind him, then slams down his hand on his second page, the one I just scantly filled out and with eyes bulging, and says to me, "YOU'RE NOT GOING IN THERE UNTIL YOU FILL THAT OUT! AND YOU'RE NOT GOING TO PLAY WITH MY GRAND JURY!"

"IT'S 1328 HOURS. YOU'RE ASSAUALTING AND COERCING ME! I answer. "JUST LIKE YOU AND STUTTS PULLED LAST MONTH!

THAT'S WHY I'M HERE! THAT'S WHY YOU'RE NAMED IN THAT REPORT! THAT'S WHY YOU'RE NOT SUPPOSED TO BE HERE!"

Pettway goes back to his beginning strategy.

Pettway tells me to leave. I refuse. The exchange is repeated.

Exhibit #27
Pettway tells me I can't bring back issues HIS Grand Jury considered on 3 September.

I tell Pettway my affidavit/petition for the October Grand Jury review panel discusses different issues altogether and Pettway knows it. This exchange is repeated.

The crime of willful blindness, willful, malicious, and invincible ignorance is marbled throughout the days leading up to 1 October. The crime is committed on 1 October. Many actors commit the crime.

PERIOD TWO (1333 - 1342 hours - 9-minutes)

Steve Sloan walked in, Madisonville police officer.

Pettway tells Sloan I need to leave.

I tell Sloan "The published notice on the bulletin board 14-steps down the hall says different." I'm pointing to the notice.

Pettway tells Sloan I can be there only when Pettway summons me.

"No, you're lying!" I say.

I leave Moser's office, walk the fourteen steps to the bulletin board, recover the notice, return to Moser's office, then read the published notice out loud."

"Where am I in conflict of Tennessee law?" I ask.

Sloan asks if the Grand Jury is assembled in the building.

Pettway tells Sloan "Yes. There here but have been let go to do there other work."

I was hearing this report for the first time.

What Pettway was talking around was that Pettway had already adjourned the review panel to deliberate on cases they did consider Thursday morning.

Policeman Sloan is way out of his league and knew it. He says, "I don't know anything about this."

Sloan discretely steps and step of Moser's office holding the notice I pulled from the bulletin board.

Sloan took the notice that had become one of two focal points. The other—again—was Pettway's assertion the Grand Jury review panel had already once reviewed and decided the merits of the 57 page affidavit/petition offered Thursday.

I leave Moser's office to get a copy of the notice.

I get to the door, go out and run smack into Sloan talking to a professionally dressed civilian. My first thought was that Sloan was talking to an attorney, one from Stutts District Attorney's office.

"Who are you?" I bark.

"Detective Shaw."

This is the first time I'd seen Shaw since 4 September.

Shaw walks into Moser's office, standing there when I get back.

I loose track of Sloan at this point. But within moments I see Police Captain Danny Russell—uniformed—standing just outside the door to Moser's office.

Pettway tells Shaw the review panel considered my 57-page statement in September. "He's done here (Fitzpatrick), and can't go back in there (the Courtroom)."

"You're WRONG," I say again. "This is different!"

Shaw took the lead on the meeting.

"I told you before to call the U.S. District Attorney!" Shaw lied.

I reacted very negatively. "The U.S. Attorney has nothing to do with this," I shot back. "And you never told me to call him!"

I asked Shaw if he wanted me to read the notice I was holding in my hand.

"No," said Shaw. "I've got a college degree. I can read it myself."

I gave it to Shaw. He read the notice.

Then Shaw said, "I told you there's no way to handle this in this state (Tennessee). You have to call the U.S. District Attorney...and you have to leave."

"Where am I in conflict with Tennessee law?" I ask.

I repeated this question over and over in the nine minutes police were on scene. No one answered.

Shaw began a 1 - 2 - 3 count that procedurally precedes an arrest.

Shaw to me: "You have to leave."

Me to Shaw: "Where am I in conflict with Tennessee law?"

Shaw: "I'm telling you to leave!"

Me: "Are you threatening my arrest?"

Shaw: "You're creating a scene. You have to leave, and leave now!"

Turning to Martha Cook who was now standing I say, "I want copies of all documents I've signed today."

Cook is caught off guard. She's flummoxed and says something audible but indistinguishable.

Shaw grabs for the paperwork on the counter, stomps off, shrugged over saying, "I'll make the copies."

At some point somebody moved all versions of my 57-page affidavit/petition from the desk to the reception counter. I discovered later Court Clerks Moser and Cook returned the two copies filed on Tuesday, 29 September.

Shaw returns. I address Cook again: "Now, explain to me the process I'm to follow to issue a criminal summons Detective Shaw **DID** tell me about last month."

Cook begins to take me through the process. At one point Detective Shaw pejoratively said," I know you take notes." When Cook finishes, I grab everything off the reception counter and leave. I take my seat on the wooden bench, empty my hands expecting one of the policemen followed me out (but didn't).

I sat down and began writing down all I could recall of what had occurred. The time is 1343 hours.

As I write I hear a group conversation coming from Moser's office. Somebody coughs, then a laugh.

The group was talking about me.

Pettway is going on about how I'd taken the treason complaint to a federal judge who'd turned it down. Pettway expounds a series of rhetorical questions to the group while snickering declarative statements intended as punch lines: "He (Fitzpatrick) was here last month and we sent him away."

I put my writing down, climbed the stairs, walked into Moser's office into the midst of four men: Russell, Stutts, Shaw, and Pettway. It's 1348 hours.

I say to them, "Anyone here got questions you can ask me! I can hear you. You want to talk about me, do it to my face. And I don't appreciate your making fun of me."

Shaw snaps, "We're not making fun!"

"Right!" I say leaving.

I return to the bench. I continue jotting down notes now hearing whispers from Moser's office.

Captain Russell leaves at 1353 hours. Shaw leaves a few minutes later.

I finished writing at 1358 hours, got up, collected my belongings and left the Courthouse.

I walked to the municipal building across the street to the municipal Martha Cook had described.

I found my way to the General Sessions Court Clerk's window, talked to one of the assistants at the counter, obtained what I need to file a criminal summons, then left. The time was 1420 hours.

"BEWARE THE FURY OF A PATIENT MAN!"

UNITED STATES HALL PETTER

UNITED STATES NAVAL ACADEMY CLAS

SWORN and signed under the scratch of my pen this Thursday, 8 October 2009,

SWORN TO AND WITNESSED BEFORE:

Signature: The Charles of the Control of the Contro

Printed Name: Kathy leterson



MONROE COUNTY GRAND JURY UPDATE...

Folks,

Yesterday morning (Thursday, 8 October) I met with **J. Reed Dixon**, judge in the Monroe County General Sessions Court.

We talked for 56 minutes.

Recall Clerk Karen Wilburn sent me to see Judge Dixon Wednesday afternoon. But Dixon had already closed shop for the day.

SUMMARY

Judge Dixon can't issue a criminal summons. Dixon and James Stutts are former partners in a Tennessee law firm.

Dixon told me there is no place in Monroe County, and by extension, no place in the state of Tennessee where law enforcement jurisdiction resides to effect investigation, arrest, and prosecution as it relates to those criminal matters raised up since 3 September 2009.

"It's all federal," says the judge.

For what it's worth: Dixon believes a federal judge can accept a Grand Jury presentment.

When you hear the words: No man is above the law...it's ain't

so. All it takes is to for the accused to be one of your friends or co-workers in government.

Government attorneys have seen to it that government law breakers are self-immunized!

And the Monroe County Grand Jury is not accessible to the common man!

NARRATIVE

I arrived at the General Sessions Court campus of co-joined prefabricated trailers at 0821 hours. I was in the Judge's reception office a few minutes later. Beverly Powell is Dixon's secretary.

I waited and chit-chatted with policemen, attorneys, and other visitors until 0933.

Dixon came on hard. It was clear the judge planned to give me only minutes of his time, then kick me the heck out and move on to more important business.

The sword fight was joined!

"You were allowed two-hours before the Grand Jury I understand to make your case," Dixon booms.

"No, I wasn't," I say.

"You're lying to me," the judge shoots back. "You had two-hours before the Grand Jury is what I'm told."

"No," I say once more, "I'm not lying. But you've been misinformed. And we'd better find out right away what you mean when you use the phrase 'Grand Jury.' Because when I use the term 'Grand Jury', I'm talking about a full contingent of thirteen people. I've never appeared before a group of thirteen. The panel I did sit before was composed of three people front of me, and Pettway off to my side. A review panel of four. And I sat before them for

10/9/09 11:45 AM

92-minutes, not 120!"

This exchange goes back of forth a little bit more.

Then the judge demands, "What criminal acts do you suggest have been committed."

"I've been obstructed from the Grand Jury twice, I've been coerced and threatened. There's perjury...."

"No!" says Dixon, stopping me mid-sentence. "Exactly what codes have been violated?" Dixon's tone is curt, impatient, and pejorative.

I've got a document package in my hands. I very deliberately go to the page that begins the itemization of the Tennessee Code Annotated (TCA), and start reading.

I read the first citation. Dixon pulls from a shelf his copy of the TCA, turns to the page where what I've just read appears, then the judge starts reading.

Dixon finishes then says, "I don't find a crime here."

I challenge the judge (we're talking about evidence tampering) and explain how the evidence package I had ready on 3 September was knowingly concealed from the review panel.

"What else," the judge wants to know.

I flip to the copy of the public notice found in the County Courthouse, the notice that names the TCA codes regarding the conduct of a Grand Jury.

Again Dixon says, in his "opinion" he finds no crime.

Dixon tells me I'm addressing procedural, process violations. Remedy can be found in the federal courts in a "MANDAMUS" hearing.

Dixon also chortles I can file suit in federal court naming civil rights violations, suggesting some may be held as criminal violations.

3 of 8 10/9/09 11:45 AM

I asked Judge Dixon to reconcile **his opinion** with the fact a Madisonville Police Detective had received a criminal complaint--on file--recognizing the events of my report as "official misconduct."

Dixon was surprised. "You reported this to police?"

"Yep, beginning on the afternoon of 3 September. I talked to Monroe County Sheriff Detective Jennifer Bledsoe. Next day I filed a written criminal complaint with Madisonville police: Case #: 09080908."

Clearly taken off his game, and irritated with this unanswerable challenge, all Dixon can think to ask is: "Do you live in Madisonville?"

Now I'm angry, and not afraid to demonstrate my anger.

"No, I live in Sweetwater! But I was sent to the Madisonville cops by the Sheriff. You know as well as Detective Bledsoe knows Madisonville is the County seat. These crimes were committed in the County Courthouse in Madisonville. Madisonville police hold jurisdiction. Where I live is of no consequence!"

I continued to explain my experiences with the Tennessee Bureau of Investigation and Federal Bureau of Investigation...and all the rest of my running around between 3-14 September, up to the point I'm now sitting in Dixon's office.

We go back and forth in this part of the meeting. And we go nowhere. Think merry-go-round. Dixon keeps attempting to reason with me regarding his opinion.

Dixon never returned to my question about the police report, which **I did** point to again.

Instead Dixon keeps chiding me for not listening. And in my tennis return response I tell Dixon, "I'm listening very very carefully. The problem here is that I don't understand what you're telling me." Dixon and I had this exchange throughout the entire hour.

4 of 8 10/9/09 11:45 AM

"You're not listening!"

"Yes I am! I just don't understand what you're telling me. You're not making sense!"

I tell the judge I'm not interested in **his "opinion"** regarding whether crimes have been committed by government officials. I laid Dixon low telling him the Constitution had established the common law Grand Jury as that forum charged with the duty and obligation to decide such questions as we were now discussing.

I commented on federal judges like Lamberth I explained how we'd been to the federal courts and turned away.

Dixon doesn't know Lamberth. Nor did Dixon know about Lamberth's ruling.

So I told Dixon about how all that had played out.

I told Dixon I'd been sitting in "his world" this morning watching the comings and goings of all the people in this echo chamber. I told Dixon when I walk outside, and talk with the people I talk to, all we see here is a corrupt process, and extreme corruption.

Dixon didn't know what I'd meant by the phrase "echo chamber."

Given the opportunity to expound...I did. I talked about the Constitution. And I talked about the purpose of a Grand Jury. I talked about government corruption. And I talked about folks such as myself were being denied access to the common law Grand Jury.

Dixon didn't take it well.

Dixon warned me of being "careless" and "reckless" in my language. I replied there was nothing of the sort in my language. I picked my words carefully and used them with as much precision as I was able.

Dixon leveled his warning accusation once again to receive my same answer.

On his third repetition I demanded of Dixon to "stop" and to describe for me a single instance wherein I'd been "careless" or "reckless" in my recititation.

Dixon fired back, "Well, you've called me corrupt!"

"No judge," I said. "I haven't...not yet! You know I haven't been talking about you. And I don't know enough about you to call you corrupt. But I do know about your system, and I do know about other judges.

"My steps have been studied and purposeful. I've been exacting and meticulous in my work. If you need any outside confirmation, touch base with Secret Service Special Agent McAmis in Knoxville."

"I don't know anything about the Secret Service," Dixon says in a low tone.

"Well I do," judge. Then told him about the criminal charge of Treason.

"I'm no fan of his either," said Dixon.

It's around this part of our meeting Dixon backs off.

Only after all of this, and in the last few minutes of our nearly 60-minutes meeting did Dixon tell me he couldn't issues a criminal summons, especially against Jim Stutts. The two men had once been partners in the same law firm.

I told Dixon I knew coming into his office he wasn't going to act.

As we came to a close I told the judge my bottom line purpose was to remove an illegitimate commander in chief from office who believes he can issue me orders.

Dixon said again, as he'd said sprinkled throughout our tense exchange, "Well, he is the president until he's not."

My answer: "No your honor...he's not my president!"

I stood up. I repeated to Dixon what Lamberth had done. Particularly as it went to Lamberth's ruling that holds a federal judge is blocked from accepting a federal Grand Jury Presentment. I told Dixon we've been to the federal courts

and were sent here, to the Monroe County Grand Jury.

My last question to Dixon was this: "Taking away **your 'opinions** judge, accepting for the moment that crimes have been committed here going government officials obstructing my access to the County Grand Jury, who does hold law enforcement jurisdiction to investigate, arrest, then prosecute the offenders."

"No one in Monroe County," says **Dixon**.

"No one in the state can help you. It's all federal."

The meeting ended well. The early adversity was gone. And so by the way was I.

It was 1029 hours.

I opened the door to walk into Powell's office. The place was jammed full of people. Policemen and civilians. I had to weave through a crowd to get to the outer office door.

Dixon, nor did anyone it seems, expect I'd take up an hour of the judge's time. I can promise you the backup for the day was substantial.

ADDITIONAL NOTE

In two days (7, 8 October) of walking about the County government campus, no one would accept my statement to be sworn under oath, then file.

I took the statement to a notary yesterday afternoon to have the document properly administered. I'll send a copy to the Madisonville Police Chief certified mail for file with **case #: 09080908** in the next day or so.

Best regards,

/s/

Walt

7 of 8



UNITED STATES NAVAL ACADEMY

Chief of Police Gregg Breeden Madisonville, Tennessee Police Department 315 Englewood Road Madisonville, Tennessee 37354

Chief Breeden:

Please accept this Notice of the Necessity, Authority and Intent to conduct a series of imminent Citizen's Arrests throughout Monroe County Tennessee.

The first arrest plan must be constructed and crafted in cooperation with the Madisonville Police Department. Wisdom dictates the first arrest plan be one that is acceptable to your Police Chief colleagues throughout Monroe County; an arrest plan that can be used again and again.

Time is not a friend. Planning must begin immediately. Contact information is provided separately.

Fair winds, following seas,

Walter Francis Fitzpatrick, III

United States Navy Retired -USNA Class of 1975

Cc: Sweetwater, Tennessee Chief of Police Eddie Byrum

Distribution: Wide

Exhibit #30

CITIZENS' ARREST WARRANT

APR 01 2010

MARTHA M. COOK
COURT CLERK This Warrant of Arrest is issued against those DOMESTIC ENEMIES named below COUNTY and named in the allied AFFIDAVIT OF CRIMINAL COMPLAINT sworn out this 29th day of March 2010:

DECLARED DOMESTIC ENEMIES

Carroll L. Ross and Amy L. Reedy (judges in Tennessee's 10th Judicial District), Robert Steven Bebb (Tennessee10th Judicial District Attorney General), James H. Stutts, Steven Morgan and Paul D. Rush (Assistant District Attorneys under Bebb), Martha M. "Marty" Cook (Monroe County Tennessee Circuit Court Clerk), Gary D. Pettway (purported Monroe County Grand Jury foreman), Bill Bivens (Sheriff Monroe County Tennessee), Benny Byrum and T.R. McDaniel (Deputy Sheriffs under Bivens), Gregg Breeden (Madisonville Tennessee Chief of Police).

Steve Frisbee (Sheriff, McMinn County Tennessee) Don Weiss (purported Monroe County Tennessee Grand Juror), Jerry N. Estes (former Tennessee10th Judicial District Attorney General), Rhonda Cooley (McMinn County Tennessee Circuit Court Clerk), Joel Reilly (purported McMinn County Tennessee Grand Jury foreman), Michael Mullins (Chairman, Joint Chiefs of Staff), Gary Roughhead (Chief of Naval Operations), Robert M. Gates (Defense Secretary), Dennis Blair (National Security Advisor), Nancy Pelosi (Speaker of the House of Representatives), Joe Biden (purported U.S. vice president) and Barack Hussein Obama (also known as Barry Soetoro, also known as Steve Soetoro), illegal alien, infiltrator and imposter United States president

This ARREST WARRANT is issued in the exercise of my duty, power and authority vested in me by the Tennessee State Constitution* and the Constitution of the United States of America. **

Sworn, signed, and issued Monday, 29 March 2010 – Time: Walter Francis **United States N** COMMISSION EXPRES. * Sec. 1. All power inherent in the people — Government under their ten free governments are founded on their authority, and instituted for their peace. hherent in the people, and all pess, for the advancement of those ends they have at all times, an unalienable and indefeasible right to alter, reform or abolish the may think proper.

Sec 2. Doctrine of nonresistance condemned - That the government being instituted for the common benefit, the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

**PREAMBLE - We the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Exhibit #31

AFFIDAVIT OF CRIMINAL COMPLAINT

INDIVIDUALS NAMED BELOW ARE HEREBY DECLARED DOMESTIC ENEMIES OF OUR THE UNITED STATES OF AMERCIA IN COMMISSION OF TREASON

Individuals named below COMMIT TREASON BEING ACTIVELY ENGAGED IN THE CONSTUCTIVE LEVY OF WAR AGAINST THE UNITED STATES GOVERNMENT AND CITIZENS OF THE UNITED STATES OF AMERICA BY THEIR ACTS OF FORCIBLE RESISTANCE to statutes of the Tennessee State Constitution and the United States Constitution with intent and having achieved some success installing a rival government. Acts of Official Oppression and Official Misconduct are two lesser-included offenses.

DECLARED DOMESTIC ENEMIES

Carroll L. Ross and Amy L. Reedy (judges in Tennessee's 10th Judicial District), Robert Steven Bebb (Tennessee 10th Judicial District Attorney General), James H. Stutts, Steven Morgan and Paul D. Rush (Assistant District Attorneys under Bebb), Martha M. "Marty" Cook (Monroe County Tennessee Circuit Court Clerk), Gary D. Pettway (purported Monroe County Grand Jury foreman), Bill Bivens (Sheriff Monroe County Tennessee), Benny Byrum and T.R. McDaniel (Deputy Sheriffs under Bivens), Gregg Breeden (Madisonville Tennessee Chief of Police).

Steve Frisbee (Sheriff, McMinn County Tennessee) Don Weiss (purported Monroe County Tennessee Grand Juror), Jerry N. Estes (former Tennessee 10th Judicial District Attorney General), Rhonda Cooley (McMinn County Tennessee Circuit Court Clerk), Joel Reilly (purported McMinn County Tennessee Grand Jury foreman), Michael Mullins (Chairman, Joint Chiefs of Staff), Gary Roughhead (Chief of Naval Operations), Robert M. Gates (Defense Secretary), Dennis Blair (National Security Advisor), Nancy Pelosi (Speaker of the House of Representatives), Joe Biden (purported U.S. vice president) and Barack Hussein Obama (also known as Barry Soetoro, also known as Steve Soetoro), illegal alien, infiltrator and imposter United States president

Sworn, signed, and issued Monday, 29 March 2010 - Time: 6945 HRS COCAL

United States

SWORN TO AND SUBSCRIBED THIS 29 DAY OF MARCH 2010 PHILLIP

TENNESSEE

MN COMMISSION EXPIRES:

TENNESSEE'S 10TH JUDICIAL DISTRICT CRIMINAL CIRCUIT COURT Exhibit #32 delivered via certified mail to MONROE COUNTY CIRCUIT COURT CLERK MARTHA M. "MARTY" COOK

Monday, 24 May 2010

Accept this **NOTICE OF CHALLENGE** publicly declaring the disqualification of each RT CLERK of two existing Monroe County Grand Juries to examine and vote on the state's criminal accusations naming myself as defendant.

I hereby publicly place both 2010 Monroe County Grand Juries under challenge as fatally compromised.

Several episodes going to disqualify the two extant 2010 Monroe County Grand Juries are commonly recognized and commonly acknowledged. Many episodes are video and audio recorded. The recordings are available in the public domain in plain view.

Under Tennessee State law a new Monroe County Tennessee Grand Jury must be assembled to consider the state's criminal accusations naming myself the defendant.

The new Grand Jury must be selected using a process free from the possibility of any human intervention.

The new Grand Jury must be immaculate. Associations with any of the parties connected to events under examination are disqualifying. Any knowledge regarding the events under examination is disqualifying.

Each person randomly selected as Juror or Juror alternate must be meticulously examined for bias and prejudice. Prospective Grand Jurors and alternates must be disqualified whereupon prejudice or bias is discovered.

The randomly assembled Grand Jurors and alternates must together pick a foreman amongst themselves, for themselves.

Judicial interference or participation of any type or kind in the selection of the new Grand Jury or its foreman is fatal to the eventual vote of that Grand Jury constructed out of the need and necessity to examine and enforce the constitutionally lawful relationship between a judge and a jury.

Tennessee law commands public notice announcing the creation of the new Grand Jury giving the name of the new Grand Jury foreman.

Walter Francis Fitzpatrick, 11

United States Navy Retired

RECEIVEDCOPY

Distribution Wide

1	Exhibit #33 Affidavit of MJ "Zeb" Blanchard re: the Facts in the Matter of
2	Inc. Case # 11-018 and Inc. Case No. 10-213 and Habeas Cause # 11366
3	<pre></pre> <pre></pre> <pre></pre> <pre></pre> <pre>Affirmati, non neganti incumbit probatio-the proof lies upon him who affirms, not on him who denies.</pre>
4	
5	Georgia state } The following text is affirmed and subscribed to Union county } in this de jure venue; to wit:
6	
7	OFFICIAL NOTICE REQUESTED / JUDICIAL NOTICE REQUIRED
8	Notice to agent is notice to principal and notice to principal is notice to agent. No authority to withhold this information from a grand Jury or Congress
9	pursuant to Title 5 - USC - Chapter 5, sections 552 A.5 (c) (d) Federal Rules of Evidence, which are otherwise restrictive, do not apply to a grand jury proceedings
10	Exclusion provision at F.R.C.P. Rule 1101(d)(2), is found at 28 U.S.C. 2072 see: United States, 250 U.S. 273, 282 (1919), the grand jury retains common law powers and authority vested by
11	common law
12	I, MJ "Zeb" Blanchard hereinafter called "Affiant," comes now before all the world, and
13	Affiant says to all the world the following:
14	Affiant's domicile is in Blairsville, Georgia. Mail receiving location for the purpose of
15	responding to this claim is: MJ "Zeb" Blanchard c/o Document Acceptor John Neaton, on
16	behalf of Notary Public Witness and Republic Ombudsman, 11037 Warner Ave., # 304,
17	Fountain Valley, California 92708
18	1. Affiant is of legal age.
19	2. Affiant is competent to testify to the facts stated herein having firsthand knowledge of
20	the facts stated herein. 3. Affiant hereafter is also called Next Friend in this matter.
21	4. At all times within this affidavit Petitioner is identified as Walter Fitzpatrick III, a man
22	unlawfully incarcerated in Monroe County, Tennessee.
23	5. Affiant is not aware of and has not seen any competent documentary evidence from a
25	competent fact witness with firsthand knowledge, showing that the merits of the factual dispute
	regarding the petitioner were ever resolved by the Respondents in any state court hearing
26	pursuant to 28 USC 2254(d)(1).
27	6. Affiant is not aware of and has not seen any competent documentary evidence from a
28	competent fact witness with firsthand knowledge, showing that the fact finding procedure employed by the respondents in state court was ever adequate to afford a full and fair hearing
	pursuant to 28 USC 2254(d)(2).
Case 3	12-cv-00048 Document 1-1 Filed 01/30% Page 180 of 196 PageID #: 286

- 7. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing the respondents in State Court can ever make an offer of proof that they ever had territorial nor subject matter jurisdiction over petitioner in the State court hearing because no injured party, free from fraud on the court, was ever produced, and Petitioner was never properly within the court's jurisdiction pursuant to 28 USC 2254(d)(4)). Amendment Art VI: see claims for relief.
- 8. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the Respondents in State Court can ever make an offer of proof that Petitioner ever received a full, fair, and adequate hearing in any State Court proceeding pursuant to (28 USC 2254(d)(6), Amendment Art V) See claims for relief.
- 9. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the Respondents in State Court can ever make an offer of proof that Petitioner was ever afforded due process of law, appellate review, right of allocution nor a Habeas Corpus judicial review de novo in the State Court proceeding pursuant to 28 USC 2254(d)(7). Amendment Art V) See claims for relief.
- 10. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that an Original Habeas Corpus under Cause Number 11366 was not in fact entered into the court record in Monroe County on October 6, 2011 with the Clerk of the Court. Respondents by their acquiescence/stipulation admit to Petitioner's Exhibit #1, and Exhibits "A"-"D" entered into evidence with the Clerk of the Court. Habeas Writ was filed but no action by respondents taken. It appears that a Fault has occurred.
- 11. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that on October 12, 2011 a Notice of Non Response and Dishonor to Respondents was not in fact entered into the court record at Monroe County for Respondents' failure to make an answer and response in 72 hours to show cause why the writ should not issue and cure the default. Respondents by their acquiescence/stipulation admit to Petitioner's Exhibit "2", entered into evidence with the Clerk of the Court. Notice of non response and dishonor was filed but no action taken by Respondents. It appears that **Default and Estoppel occurred.**
- 12. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that on October 17, 2011 a Notice

of Entry of Default Judgment against Respondents on Habeas Cause # 11366 was not in fact 1 entered into the court record in Monroe County. Respondents by their acquiescence/stipulation 2 admit to Petitioner's Exhibit "3" entered into evidence with the Clerk of the Court. Notice of 3 entry of Default Judgment against Respondents on Habeas Cause # 11366 was filed but no 4 action by respondents taken. It appears that Protest and Latches occurred. 5 13. Affiant is not aware of and has not seen any competent documentary evidence from a 6 competent fact witness with firsthand knowledge, showing that on October 24, 2011 a copy of 7 the original Habeas Cause # 11366 and Notice Regarding Default / Dishonor Regarding the 8 Matter of Habeas Corpus filed by MJ Blanchard into the Monroe County Court Record 9 regarding Cause File # 11366 Notice and Demand to Cure Default/Dishonor by Ordering the Immediate and Unconditional Release of Walter Fitzpatrick III and Vacate cases # 11-018 and 10 10-213 and Void all Judgments against him was not sent from the Republic Citizens' 11 Ombudsman Michael Lerman, a private party constitutional rights advocate and fraud fighter, 12 under notary presentment to Ms. Janice Holder, et al, Chief Justice for the Tennessee Supreme 13 Court for her honor and response to cure default with ten days given to respond. 14 14. Affiant is not aware of and has not seen any competent documentary evidence from a 15 competent fact witness with firsthand knowledge, showing that Ms. Janice Holder, et al, Chief 16 Justice for the Tennessee Supreme Court is not aware of TCA 29-21-128. Re: Disobedience of 17 writ or order, TCA 29-21-115.re: Precept., what the Tennessee legislature says about this matter in code and that the U. S. Supreme Court says military tribunals used to try civilians in 18 any jurisdiction where the civil courts were functioning is unconstitutional, with its decision in 19 Ex Parte Milligan, 71 U.S. 2 (1866). By rendering that decision the Supreme Court is saying 20 that it is unconstitutional to suspend Habeas Corpus while the courts are open. Respondents by 21 their acquiescence/stipulation admit to Petitioner's Exhibit "4" sent by Certified Mail # 7009 22 0820 0002 1069 2923 with receipt of proof of service, Petitioner's Exhibit "5" that mailing was 23 sent under notary presentment and seal, Petitioner's Exhibit "6" showing proof of service, 24 Petitioner's Exhibit "7" showing mailing receipt of proof of service that documents sent, which 25 were Notice and Demand to Cure Default/Dishonor by Ordering the Immediate and Unconditional Release of Walter Fitzpatrick III and Vacate cases # 11-018 and 10-213 and 26 Void all Judgments, were sent from the Republic Citizens' Ombudsman Michael Lerman to 27 Tennessee Supreme Court and Ms. Janice Holder, et al, Chief Justice for the Tennessee 28

Supreme Court and were filed but no action by Respondents taken. It appears that unclean

hands and breach of fiduciary duty occurred: an Art 5 and Art 6 Constitutional violation because a second default transpired and therefore Estoppel occurred.

- 15. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that Ms. Janice Holder, et al, Chief Justice for the Tennessee Supreme Court is not aware that the burden is upon the Respondent/Defendant to show that the arrest was by authority of law. See "McAleer v. Good, 65 Atl. 934, 935 (1907); Mackie v. Ambassador, 11 P.2d 6 (1932).
- 16. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that after 3 days, on November 8, 2011 that the following documents were not filed with the Tennessee Supreme Court and Ms. Janice Holder et al, Chief Justice for the Tennessee Supreme Court with grace to cure by ordering Petitioner's release and immediately vacating cases 11-018 and 10-213: Notice of Protest re Default re Non Response to Ombudsman Letter, a Notice and Demand to Cure Default of Non Response to Habeas Corpus submitted by Next Friend MJ Blanchard to procure habeas relief for Petitioner Walter Fitzpatrick III. This letter is Petitioner's Exhibit "8". Petitioner's Exhibit "9" was the notary protest for their default /dishonor. Petitioner's Exhibit "10", shows proof of service and Petitioner's Exhibit "11" shows the Green card receipt for certified mail to Tennessee Supreme Court showing that these documents were entered into evidence with the Clerk of the Court. No action by Respondents was taken. Respondents by their acquiescence/stipulation admit to Petitioner's Exhibit "8". It appears that a Felony Tort under title 4 misprision of a felony occurred against Petitioner when they failed to release him.
- 17. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, establishing that subject matter jurisdiction in Inc Case No. 11-018 and Inc Case No. 10-213 and all cases attached to this matter is or was ever present pursuant to USC 40 § 255 or that the status of the affiant named herein is not that of one of the Sovereign people of the Georgia Republic who's status is clarified by the Supreme Court case holding in Chisolm v. Georgia and in 2 Corinthians 5:20 and is not a enemy combatant subject under the T.W.E.A. found now in title 50 and 12 U.S.C. 95A & 95B, nor legal fiction, US INC chattel slave person, vessel, in rem constructive trust, corporate entity or any other artificially constructed en legis person fraudulent construct. Affiant reserves all rights in commerce and wishes to compel production of documentation specific to the establishment of the jurisdiction of the agent, principal or agency conducting any and all

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proceeding and ascertain the evidence of constitutional oath of office, proof of bonding and authority on the record of anyone representing himself or herself as a government officer or agent prior to the commencement of any proceeding to avoid implications of "de facto officer doctrine".

- 18. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that a respondent surety bond and lawful consideration is/or was present to bond Monroe County Tennessee Court's Incorporated Case No. 11-018 and Incorporated Case No. 10-213 by the Respondents. Notice: See Dluhos v Floating Abandoned Vessel 979 F. Supp. 138 (NDNY 1997) a vessel may not be presumed to be abandoned under the substantive law of admiralty. Because Mr. Dluhos (the accuser) did not post the bond required by the trial court, the court did not arrest the vessel and therefore lacked jurisdiction over the vessel in rem.
- 19. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that a SUBROGATION AGREEMENT agreed to by the original creditor, original debtor and the third-party attempting to collect a debt in assumpsit against Walter Fitzpatrick III exists, in fact, that contains the original creditor's wet ink signature, Petitioner Walter Fitzpatrick's wet ink signature and the third party debt collector's wet ink signature on the same contractual agreement.
- 20. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that any lawful Verified Claim exists free from fraud and subsilencios supported by evidence that claimant can prove lawful exhaustion of administrative process supported by a Notice of Fault, Default for Non-Response and demands to cure said default supported by evidence of a notary certified Certificate of Protest for Dishonor before bringing this matter before a Court of Record, no evidence of good faith, clean hands nor fair and unbiased conduct.
- 21. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that DEBT VALIDATION PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT (15 USC §1601, ET SEQ) was ever given. Debt or claim by entity subject by the APA must be verified by a sworn affidavit of claim, using reliable, probative and truthful information. See Title 5 - USC -

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1 2 22. Affiant is not aware of and has not seen any competent documentary evidence from a 3 4 5 6 7 8 9 10 11 12 13 and agents as required by law. 14 23. 15 16 17 18 19 20 agreement terms nor lawful consideration. 21

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Chapter 5, sections 511 definitions to see who APA applies to City, County, and Federal entities and corporations using Federally issued funds are subjects of the act.

- competent fact witness with firsthand knowledge, showing that the foreign controlled and owned Bankrupt corporation entity known as the STATE OF TENNESSE and/ or CITY OF AND/ OR COUNTY OF MONROE is not an instrumentality of THE UNITED STATES Corporation formed in 1871 and incorporated in the City of London that year and registered in Delaware as a for profit corporation which is acting as a commercial debt enforcement arm/agent of the INTERNATIONAL MONETARY FUND and the WORLD BANK, hereinafter called the BANK and the FUND, as defined in the 1944 BRETTON WOODS AGREEMENT, a foreign principal power, and as such has no lawful standing to hold court absent full material fact disclosure of the real creditors in interest, full disclosure of all interlocking equity ties to prove there is not a commercial and constitutional conflict of interest in this instant matter and that Respondents can prove they are registered as foreign principals
- Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the procedural phantom entity calling itself plaintiff and the STATE OF TENNESSE has a lawful cause of action, right of action, or standing in their lower federal admiralty court and that their In This "State" federal admiralty court has obtained lawful jurisdiction over the Petitioner in this matter due to their failure to make an offer of proof of such and proof of bonding, oaths of offices, original contract with wet ink signature, Executor authorization agreement, evidence of mutuality of
- Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that it has not been demanded by notary presentment notice that the attorneys operating on behalf of this entity calling itself the State of TENNESSEE for Monroe County dispute the claims of the Petitioner's original Habeas Corpus and affidavit filed under Cause # 11366 regarding the matter concerning Inc Case No. 11-018 and Inc Case No. 10-213 and prove, as is required by law, that they have a valid cause of action, right of action, authority and standing in this court by placing their own affidavit in rebuttal to Petitioner's claims submitted by his Next Friend on his behalf and further prove that Inc Case No. 11-018 and Inc Case No.10-213 were ever a lawful court of competent jurisdiction free from frauds previously formed.

Case \$12-cv-00048 Document 1-1 Filed 01/30892 Page 185 of 196 PageID #: 291

25. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the Plaintiff and the State of Tennessee have offered any proof that they are holders in due course with a proper cause of action, right of action, standing and jurisdiction free from material omissions and fraudulent inducements supported by valid contract claim and by a sworn affidavit in their full, unlimited commercial liability, to date, to bring this matter before a Court of Record.

- 26. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the Plaintiff and the State of Tennessee has offered any proof that they have filed a foreign agent registration in the matter of Inc Case No. 11-018 and in the matter of Inc Case No.10-213 pursuant to FSIA and Article Eleven of the Bill of Rights Amendment and the Foreign Agents Registration Act (22 USC §612 et seq.).
- 27. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the prosecuting attorney has not defaulted and that the Court shall make a finding of factual innocence pursuant to Tennessee code 24-5-103. Notary's Certificate as to notice of dishonor is prima facie evidence because the prosecuting attorney has failed to present a lawful, verified compliant supported by facts, law and evidence sufficient to support a cause of action and claim against the Petitioner and his habeas claim under Cause # 11366, submitted by his Next Friend before the notary.
- Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that prosecuting attorney and judge /magistrate / commissioner/ clerk of the court and all others who aid and abet an irregular on its face proceeding that contains proven fraudulent material fact omissions and substantive violations of due process in law are not subject to Rule 11 FRCP and Title 18 sec4 and other Title 18 violations for fraud, RICO, piracy, inducement to slavery and are not subject to suit for deprivation of rights under color of authority when and if they continue holding Petitioner incarcerated after being noticed they were absent subject matter jurisdiction, proven on the record, supported by sworn affidavits which were in turn supported by facts, law and evidence and remain uncontested.
- Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that prosecuting attorney and judge / magistrate / commissioner/ clerk of the court and all other who aid and abet an irregular on its face proceeding that contains proven fraudulent material fact omissions and substantive

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violations of due process in law are not subject to Rule 11 FRCP and Title 18 sec4 and other title 18 violations for fraud, RICO, piracy, inducement to slavery and are not subject to suit for deprivation of rights under color of authority when it was learned that they have used tricks and schemes found in action by defense attorney which are constitutionally infirm and inquisitional in violation of the Sixth Amendment and are a fraudulent concealment when Petitioner Walter Fitzpatrick III was not informed by his attorney that when he wanted to challenged the merits of the prosecution's fraudulent case with his attorney where it says in TCA 40-1-109 that writing or requesting a trial upon the merits expressly waives an indictment, presentment, grand jury investigation and jury trial and where it says at 40-3-103. Information (2) Upon the accused's agreeing in writing in the presence of the accused's attorney to waive such right, the court may proceed in all respects as in cases prosecuted by indictment or presentment. The Attorney General and petitioner's Attorney used a trick artifice of fraud scheme and unlawful deception built into a constitutionally infirm piece of legislation that uses fraud and deceit to abridge and circumvent Petitioner's equal protection in law under the constitution's Sixth Amendment rights. As such, Petitioner has been defrauded by the attorneys working in conspiracy to circumvent Petitioner's constitutionally protected rights and equal protection in law.

These are uncontested facts.

Affiant has read the foregoing, and Affiant knows and understands the contents therein. Affiant affirms the above-stated to the best of Affiant's knowledge, understanding and beliefs and submits the aforementioned on Affiant's own, unlimited commercial liability declaring by affidavit that the foregoing is true, correct, complete, certain and not misleading. Affiant's word is Affiant's bond. Affiant's autograph is Affiant's seal. This deed is made under Necessity-of-Law in order to protect Affiant's unalienable interests from trespass and harm with specific reference to Affiant's Right of Subrogation and Right of Recourse should harm continue to occur to Affiant's protected rights herein.

Done the day of the month of January in the year two thousand twelve in Union County in the Georgia Republic.

NOTARY
NOTARY
11/18/2013
1-28-12
PUBLIC
ONTARY
ON MY COMM. EXP. OF THE PUBLIC

_ All rights reserved

1	Exhibit #34 Affidavit of Michael Lerman re: the Facts in the Matter of
2	Inc. Case # 11-018 and Inc. Case No. 10-213 re: Habeas Cause # 11366
3	<pre></pre> <pre></pre> <pre></pre> <pre></pre> <pre>Affirmati, non neganti incumbit probatio-the proof lies upon him who affirms, not on him who denies.</pre>
4	California state } The following text is affirmed and subscribed to
5	Orange county } in this de jure venue; to wit:
6 7	OFFICIAL NOTICE REQUESTED / JUDICIAL NOTICE REQUIRED
8	Notice to agent is notice to principal and notice to principal is notice to agent. No authority to withhold this information from a grand Jury or Congress
	pursuant to Title 5 - USC - Chapter 5, sections 552 A.5 (c) (d) Federal Rules of Evidence, which are otherwise restrictive, do not apply to a grand jury proceedings
10	Exclusion provision at F.R.C.P. Rule 1101(d)(2), is found at 28 U.S.C. 2072 see: United States, 250 U.S. 273, 282 (1919), the grand jury retains common law powers and authority vested by
11	common law.
12	I, Michael Lerman hereinafter called "Affiant," comes now before all the world, and
13	Affiant says to all the world the following:
14	Affiant's domicile is in Huntington beach, California. Mail receiving location for the purpose
15	of responding to this claim is: Michael Lerman c/o Document Acceptor John Neaton, on behalf
16	of Notary Public Witness and Republic Ombudsman, 11037 Warner Ave., # 304, Fountain
17	Valley, California 92708
	1. Affiant is of legal age.
18	2. Affiant is competent to testify to the facts stated herein having firsthand knowledge of
19	the facts stated herein.
20	3. Affiant hereafter is also called Republic citizens' Ombudsman in this matter.
21	4. At all times within this affidavit Petitioner is identified as Walter Fitzpatrick III, a man
22	unlawfully incarcerated in Monroe County, Tennessee.
23	5. Affiant is not aware of and has not seen any competent documentary evidence from a
24	competent fact witness with firsthand knowledge, showing that the merits of the factual dispute
	regarding the petitioner were ever resolved by the Respondents in any state court hearing
25	pursuant to 28 USC 2254(d)(1).
26	6. Affiant is not aware of and has not seen any competent documentary evidence from a
27	competent fact witness with firsthand knowledge, showing that the fact finding procedure
28	employed by the respondents in state court was ever adequate to afford a full and fair hearing
	to Petitioner pursuant to 28 USC 2254(d)(2).

7. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing the respondents in State Court can ever make an offer of proof that they ever had territorial nor subject matter jurisdiction over Petitioner in the State court hearing because no injured party, free from fraud on the court, was ever produced, and Petitioner was never properly within the court's jurisdiction pursuant to 28 USC 2254(d)(4)). Amendment Art VI: see claims for relief.

- 8. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the Respondents in State Court can ever make an offer of proof that Petitioner ever received a full, fair, and adequate hearing in any State Court proceeding pursuant to (28 USC 2254(d)(6)., Amendment Art V) See claims for relief.
- Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the Respondents in State Court can ever make an offer of proof that Petitioner was ever afforded due process of law, appellate review, right of allocution nor a Habeas Corpus judicial review de novo in the State Court proceeding pursuant to 28 USC 2254(d)(7), Amendment Art V): See claims for relief.
- 10. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that an Original Habeas Corpus under Cause Number 11366 was not in fact entered into the court record in Monroe County on October 6, 2011 with the Clerk of the Court. Respondents by their acquiescence/stipulation admit to Petitioner's Exhibit #1, and Exhibits "A"-"D" entered into evidence with the Clerk of the Court. Habeas Writ was filed but no action by respondents taken. It appears that a Fault has occurred.
- Affiant is not aware of and has not seen any competent documentary evidence from a 11. competent fact witness with firsthand knowledge, showing that on October 12, 2011 a Notice of Non Response and Dishonor to Respondents was not in fact entered into the court record at Monroe County for Respondents' failure to make an answer and response in 72 hours to show cause why the writ should not issue and cure the default. Respondents by their acquiescence/stipulation admit to Petitioner's Exhibit "2", entered into evidence with the Clerk of the Court. Notice of non response and dishonor was filed but no action taken by Respondents. It appears that **Default and Estoppel occurred.**
- Affiant is not aware of and has not seen any competent documentary evidence from a 12. competent fact witness with firsthand knowledge, showing that on October 17, 2011 a Notice

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of Entry of Default Judgment against Respondents on Habeas Cause # 11366 was not in fact entered into the court record in Monroe County. Respondents by their acquiescence/stipulation admit to Petitioner's Exhibit "3" entered into evidence with the Clerk of the Court. Notice of entry of Default Judgment against Respondents on Habeas Cause # 11366 was filed but no action by respondents taken. It appears that Protest and Latches occurred.

- 13. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that on October 24, 2011 a copy of the original Habeas Cause # 11366 and Notice Regarding Default / Dishonor Regarding the Matter of Habeas Corpus filed by MJ Blanchard into the Monroe County Court Record regarding Cause File # 11366 Notice and Demand to Cure Default/Dishonor by Ordering the Immediate and Unconditional Release of Walter Fitzpatrick III and Vacate cases # 11-018 and 10-213 and Void all Judgments against him was not sent from the Republic Citizens' Ombudsman Michael Lerman, a private party constitutional rights advocate and fraud fighter, under notary presentment to Ms. Janice Holder, et al, Chief Justice for the Tennessee Supreme Court for her honor and response to cure default with ten days given to respond.
- Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that Ms. Janice Holder, et al, Chief Justice for the Tennessee Supreme Court is not aware of TCA 29-21-128. Re: Disobedience of writ or order, TCA 29-21-115.re: Precept., what the Tennessee legislature says about this matter in code and that the U. S. Supreme Court says military tribunals used to try civilians in any jurisdiction where the civil courts were functioning is unconstitutional, with its decision in Ex Parte Milligan, 71 U.S. 2 (1866). By rendering that decision the Supreme Court is saying that it is unconstitutional to suspend Habeas Corpus while the courts are open. Respondents by their acquiescence/stipulation admit to Petitioner's Exhibit "4" sent by Certified Mail # 7009 0820 0002 1069 2923 with receipt of proof of service, Petitioner's Exhibit "5" that mailing was sent under notary presentment and seal, Petitioner's Exhibit "6" showing proof of service, Petitioner's Exhibit"7" showing mailing receipt of proof of service that documents sent, which were Notice and Demand to Cure Default/Dishonor by Ordering the Immediate and Unconditional Release of Walter Fitzpatrick III and Vacate cases # 11-018 and 10-213 and Void all Judgments, were sent from the Republic Citizens' Ombudsman Michael Lerman to Tennessee Supreme Court and Ms. Janice Holder, et al, Chief Justice for the Tennessee Supreme Court and were filed but no action by Respondents taken. It appears that unclean

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hands and breach of fiduciary duty occurred - an Art 5 and Art 6 Constitutional violation because a second default transpired and therefore Estoppel occurred.

- 15. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that Ms. Janice Holder, et al, Chief Justice for the Tennessee Supreme Court is not aware that the burden is upon the Respondent /Defendant to show that the arrest was by authority of law. See "McAleer v. Good, 65 Atl. 934, 935 (1907); Mackie v. Ambassador, 11 P.2d 6 (1932).
- 16. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that after 3 days, on November 8, 2011 that the following documents were not filed with the Tennessee Supreme Court and Ms. Janice Holder et al, Chief Justice for the Tennessee Supreme Court with grace to cure by ordering Petitioner's release and immediately vacating cases 11-018 and 10-213: Notice of Protest re Default re Non Response to Ombudsman Letter, a Notice and Demand to Cure Default of Non Response to Habeas Corpus submitted by Next Friend MJ Blanchard to procure habeas relief for Petitioner Walter Fitzpatrick III. This letter is Petitioner's Exhibit "8". Petitioner's Exhibit "9" was the notary protest for their default /dishonor. Petitioner's Exhibit "10", shows proof of service and Petitioner's Exhibit "11" shows the Green card receipt for certified mail to Tennessee Supreme Court showing that these documents were entered into evidence with the Clerk of the Court. No action by Respondents was taken. Respondents by their acquiescence/stipulation admit to Petitioner's Exhibit "8". It appears that a Felony Tort under title 4 misprision of a felony occurred against Petitioner when they failed to release him.
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proceeding and ascertain the evidence of constitutional oath of office, proof of bonding and 1 authority on the record of anyone representing himself or herself as a government officer or agent prior to the commencement of any proceeding to avoid implications of "de facto officer 3 doctrine". 4 Affiant is not aware of and has not seen any competent documentary evidence from a 5 competent fact witness with firsthand knowledge, showing that a respondent surety bond and 6 lawful consideration is/or was present to bond Monroe County Tennessee Court's 7 Incorporated Case No. 11-018 and Incorporated Case No. 10-213 by the Respondents, Notice: 8 See Dluhos v Floating Abandoned Vessel 979 F. Supp. 138 (NDNY 1997) a vessel may not 9 be presumed to be abandoned under the substantive law of admiralty. Because Mr. Dluhos (the accuser) did not post the bond required by the trial court, the court did not arrest the 10 vessel and therefore lacked jurisdiction over the vessel in rem. 11 19 Affiant is not aware of and has not seen any competent documentary evidence from a 12 competent fact witness with firsthand knowledge, showing that a SUBROGATION 13 AGREEMENT agreed to by the original creditor, original debtor and the third-party 14 attempting to collect a debt in assumpsit against Walter Fitzpatrick III exists, in fact, that 15 contains the original creditor's wet ink signature, Petitioner Walter Fitzpatrick 's wet ink 16 signature and the third party debt collector's wet ink signature on the same contractual 17 agreement. 20. Affiant is not aware of and has not seen any competent documentary evidence from a 18 competent fact witness with firsthand knowledge, showing that any lawful Verified Claim 19 exists free from fraud and subsilencios supported by evidence that claimant can prove lawful 20 exhaustion of administrative process supported by a Notice of Fault, Default for Non-21 Response and demands to cure said default supported by evidence of a notary certified 22 Certificate of Protest for Dishonor before bringing this matter before a Court of Record, no 23 evidence of good faith, clean hands nor fair and unbiased conduct. 24 21. Affiant is not aware of and has not seen any competent documentary evidence from a 25 competent fact witness with firsthand knowledge, showing that DEBT VALIDATION PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT (15 USC §1601, ET 26 SEQ) was ever given. Debt or claim by entity subject by the APA must be verified by a sworn 27 affidavit of claim, using reliable, probative and truthful information. See Title 5 - USC -28 Chapter 5, sections 511 definitions to see who APA applies to City, County and Federal

entities and corporations using Federally issued funds are subjects of the act.

22. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the foreign *controlled and owned Bankrupt* corporation entity known as the <u>STATE OF TENNESSE</u> and/ or <u>CITY OF AND/ OR COUNTY OF MONROE</u> is not an instrumentality of THE UNITED STATES Corporation formed in 1871 and incorporated in the City of London that year and registered in Delaware as a for profit corporation which is acting as a commercial debt enforcement arm/agent of the INTERNATIONAL MONETARY FUND and the WORLD BANK, hereinafter called the BANK and the FUND, as defined in the 1944 BRETTON WOODS AGREEMENT, a foreign principal power, and as such has no lawful standing to hold court absent full material fact disclosure of the real creditors in interest, full disclosure of all interlocking equity ties to prove there is not a commercial and constitutional conflict of interest in this instant matter and that Respondents can prove they are registered as foreign principals and agents as required by law.

- 23. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the **procedural phantom** entity calling itself plaintiff and the <u>STATE OF TENNESSE</u> has a lawful cause of action, right of action, or standing in their lower federal admiralty court and that their In This "State" federal admiralty court has obtained lawful jurisdiction over the Petitioner in this matter due to their failure to make an offer of proof of such and proof of bonding, oaths of offices, original contract with wet ink signature, Executor authorization agreement, evidence of mutuality of agreement terms nor lawful consideration.
- 24. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that it has not been demanded by notary presentment notice that the attorneys operating on behalf of this entity calling itself the State of TENNESSEE for Monroe County dispute the claims of the Petitioner's original Habeas Corpus and affidavit filed under Cause # 11366 regarding the matter concerning Inc Case No. 11-018 and Inc Case No.10-213 and prove, as is required by law, that they have a valid cause of action, right of action, authority and standing in this court by placing their own affidavit in rebuttal to Petitioner's claims submitted by his Next Friend on his behalf and further prove that Inc Case No. 11-018 and Inc Case No.10-213 were ever a lawful court of competent jurisdiction free from frauds previously formed.
- 25. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the Plaintiff and the State of

Tennessee have offered any proof that they are holders in due course with a proper cause of action, right of action, standing and jurisdiction free from material omissions and fraudulent inducements supported by valid contract claim and by a sworn affidavit in their full, unlimited commercial liability, to date, to bring this matter before a Court of Record.

- 26. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that the Plaintiff and the State of Tennessee has offered any proof that they have filed a foreign agent registration in the matter of Inc Case No. 11-018 and in the matter of Inc Case No.10-213 pursuant to FSIA and Article Eleven of the Bill of Rights Amendment and the Foreign Agents Registration Act (22 USC §612 et seq.).
- Affiant is not aware of and has not seen any competent documentary evidence from a 27. competent fact witness with firsthand knowledge, showing that the prosecuting attorney has not defaulted and that the Court shall make a finding of factual innocence pursuant to Tennessee code 24-5-103. Notary's Certificate as to notice of dishonor is prima facie evidence because the prosecuting attorney has failed to present a lawful, verified compliant supported by facts, law and evidence sufficient to support a cause of action and claim against the Petitioner and his habeas claim under Cause # 11366, submitted by his Next Friend before the notary.
- 28. Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that prosecuting attorney and judge/magistrate / commissioner/ clerk of the court and all others who aid and abet an irregular on its face proceeding that contains proven fraudulent material fact omissions and substantive violations of due process in law are not subject to Rule 11 FRCP and Title 18 sec4 and other Title 18 violations for fraud, RICO, piracy, inducement to slavery and are not subject to suit for deprivation of rights under color of authority when and if they continue holding Petitioner incarcerated after being noticed they were absent subject matter jurisdiction, proven on the record, supported by sworn affidavits which were in turn supported by facts, law and evidence and remain uncontested.
- Affiant is not aware of and has not seen any competent documentary evidence from a competent fact witness with firsthand knowledge, showing that prosecuting attorney and judge /magistrate / commissioner/ clerk of the court and all other who aid and abet an irregular on its face proceeding that contains proven fraudulent material fact omissions and substantive violations of due process in law are not subject to Rule 11 FRCP and Title 18 sec4 and other title 18 violations for fraud, RICO, piracy, inducement to slavery and are not subject to suit for

26

27

deprivation of rights under color of authority when it was learned that thy have used tricks and schemes found in action by defense attorney which are constitutionally infirm and inquisitional in violation of the Sixth Amendment and are a fraudulent concealment when Petitioner Walter Fitzpatrick III was not informed by his attorney that when he wanted to challenged the merits of the prosecution's fraudulent case with his attorney where it says in TCA 40-1-109 that writing or requesting a trial upon the merits expressly waives an indictment, presentment, grand jury investigation and jury trial and where it says at 40-3-103. Information (2) Upon the accused's agreeing in writing in the presence of the accused's attorney to waive such right, the court may proceed in all respects as in cases prosecuted by indictment or presentment. The Attorney General and petitioner's Attorney used a trick artifice of fraud scheme and unlawful deception built into a constitutionally infirm piece of legislation that uses fraud and deceit to abridge and circumvent Petitioner's equal protection in law under the constitution's Sixth Amendment rights. As such, Petitioner has been defrauded by the attorneys working in conspiracy to circumvent Petitioner's constitutionally protected rights and equal protection in law.

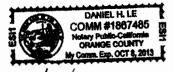
These are uncontested facts.

Affiant has read the foregoing, and Affiant knows and understands the contents therein.

Affiant affirms the above-stated to the best of Affiant's knowledge, understanding and beliefs and submits the aforementioned on Affiant's own, unlimited commercial liability declaring by affidavit that the foregoing is true, correct, complete, certain and not misleading. Affiant's word is Affiant's bond. Affiant's autograph is Affiant's seal. This deed is made under Necessity-of-Law in order to protect Affiant's unalienable interests from trespass and harm with specific reference to Affiant's Right of Subrogation and Right of Recourse should harm continue to occur to Affiant's protected rights herein.

Done the 28 day of the month of January in the year two thousand twelve in Fountain Valley in the California Republic.

All rights reserved



Daniel H

Exhibit #35



Fitzpatrick side door after forced entry on December 7, 2011



Method of forcing entry is depicted by boot print on door.

fitzpix02